



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

Decision Codes: FF, MNDC, MNSD

## Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$600
- b. An order to keep the security deposit.
- c. An order to recover the cost of the filing fee

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. A monetary order in the sum of \$600 to recover their security deposit.
- b. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the tenants and in the absence of the landlords. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing filed by the Tenants was personally served on the landlords on March 9, 2017. With respect to each of the applicant's claims I find as follows:

## Issues to be Decided

The issues to be decided are as follows:

- a. Whether the landlords are entitled to a monetary order and if so how much?
- b. Whether the landlords are entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlords are entitled to recover the cost of the filing fee?
- d. Whether the Tenants are entitled to a monetary order and if so how much?
- e. Whether the Tenants are entitled to recover the cost of the filing fee?

## Background and Evidence:

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on December 15, 2016. The tenancy agreement provided that the tenant(s) would pay rent of \$1200 per month payable in advance on the first

day of each month. The tenants paid a security deposit of \$600 at the start of the tenancy.

The tenancy ended at the end of February after the tenants gave the landlord written notice they were vacating because of the presence of mold in the rental unit.

#### Landlord's Application - Analysis

The landlords filed an Application for Dispute Resolution seeking a monetary order in the sum of \$600 for the administrative cost to re-rent the rental unit and an order to keep the security deposit.

The landlords failed to attend the hearing and failed to provide evidence under oath. The tenants were present and ready to proceed. As a result I ordered the application of the landlords be dismissed without liberty to re-apply.

Policy Guideline #17 includes the following:

#### **“C. RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH DISPUTE RESOLUTION**

1. The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:
  - a landlord's application to retain all or part of the security deposit; or
  - a tenant's application for the return of the deposit.

unless the tenant's right to the return of the deposit has been extinguished under the Act<sup>14</sup>. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for dispute resolution for its return.”

The Policy Guidelines provide that an arbitrator is to order the return of the security deposit to the Tenants where the landlords' application has been dismissed. As a result I ordered the landlords to pay to the Tenants the sum of \$600.

#### Tenant's Application:

For the reasons set out above I ordered that the landlords shall return the security deposit to the Tenants. I further determined the Tenants are entitled to recover the \$100 filing fee.

I ordered the landlord(s) to pay to the tenants the sum of \$600 plus the sum of \$100 in respect of the filing fee for a total of \$700.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

**This decision is final and binding on the parties.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Residential Tenancy Act.

Dated: August 02, 2017

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Residential Tenancy Branch