



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LANDLORD; MND, MNDC, MNSD, FF  
TENANT: MNSD, FF

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed seeking a monetary order for compensation for damage to the unit site or property, compensations for loss or damage under the Act, regulations and tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Tenant filed seeking a monetary order for the return of the Tenants' security and pet deposits and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlord to the Tenants were done by registered mail on March 29, 2019, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenants to the Landlord were done by registered mail on April 1, 2019 in accordance with section 89 of the Act.

The Tenants' agent and the Landlord confirmed that they had received the other party's hearing packages.

### Issues to be Decided

#### Landlord:

1. Is there damage to the unit, site or property and if so how much?
2. Is there loss or damage to the Landlord and if so how much?
3. Is the Landlord entitled to compensation for loss or damage and if so how much?
4. Is the Landlord entitled to retain the Tenants' security and pet deposits?

#### Tenant:

1. Are the Tenants entitled to the return of the all or part of their security and pet deposits?

### Background and Evidence

This tenancy started on August 1, 2017 as a month to month tenancy. Rent was \$1,000.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$500.00 and a pet deposit of \$250.00 at the start of the tenancy. A move in condition inspection report was completed on August 3, 2017 and a move out condition inspection report was complete by the Landlord alone on March 5, 2019. The Landlord said four opportunities to do the report were given to the Tenants before she completed the report alone. The tenancy ended on February 28, 2019. The Tenant's agent said the Tenants text message the Landlord a Security Deposit Refund Form on March 5, 2019 with the Tenants' forwarding address in it and requesting the return of \$400.00 of their deposits. The Tenants acknowledged the Landlord was going to incur cleaning costs and they agreed the Landlord could retain \$350.00 of the deposits. The Landlord confirmed receiving the email and forwarding address but said she was in the hospital so she didn't see the text until March 7, 2019. The tenancy ended on February 28, 2019.

It should be noted the Landlords application was made on March 25, 2019 which is 20 days after receiving the Tenants' forwarding address and 25 days after the tenancy ended. Section 38 of the Act states a landlord **must** return the deposit or make an application to retain the deposits within 15 days of the end of tenancy and receiving a tenant's forwarding address. If the landlord does not do this the Landlord's claim on the deposits is extinguished. The Landlord's application is 5 days late to make a claim on the Tenants' deposits. Consequently the Landlord's claim against the Tenants' security and pet deposits are extinguished.

During the course of the hearing, the parties reached an agreement to settle these matters, on the following conditions:

1. the Landlord agreed to retain \$150.00 of the Tenants' deposits and agreed to return \$600.00 to the Tenants as full satisfaction of both the Landlord's and Tenants' applications.
2. the Tenants' agent agreed to the return of \$600.00 of the deposits as full satisfaction of both the Landlord's and Tenants' applications
3. the Tenants will receive a monetary order for \$600.00.
4. in support of this settlement agreement the Tenants are at leave to reapply for double the deposits if the Landlord does not return \$600.00 of the Tenants' deposits within 15 days of receiving this decision.

Under section 63 (1) the director can assist parties or offer parties an opportunity to settle their dispute. Pursuant to section 63 of the Act the Landlord and the Tenants agreed to the above arrangement.

As no further action is required on these files, the files are closed.

### Conclusion

The Tenants have received a Monetary Order for \$600.00.

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: May 27, 2019

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Residential Tenancy Branch