



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNRT, MNDCT, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of the tenant's security deposit of \$700.00, pursuant to section 38;
- a monetary order for the cost of emergency repairs of \$2,173.21 and for compensation of \$17,846.25 for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The applicant tenant did not attend this hearing, which lasted approximately 15 minutes. The respondent landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

This hearing began at 1:30 p.m. and ended at 1:45 p.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

The landlord confirmed his name and spelling. He provided his email address for me to send this decision to him after the hearing. He stated that he owns the rental unit. He provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* does not permit recording of this hearing by any party. At the outset of this hearing, the landlord affirmed, under oath, that he would not record this hearing.

I explained the hearing process to the landlord. I informed him that I could not provide legal advice to him or act as his agent or advocate. He had an opportunity to ask questions, which I answered. He stated that he was ready to proceed with this hearing. He did not make any adjournment or accommodation requests.

The landlord confirmed receipt of the tenant’s application for dispute resolution hearing and notice of hearing, but not any written evidence. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant’s application and notice of hearing.

#### Preliminary Issue – Dismissal of Tenant’s Application

Rule 7.3 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* states:

*7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

In the absence of any appearance by the tenant, I order the tenant’s entire application dismissed without leave to reapply.

#### Preliminary Issue – Residential Tenancy Policy Guideline 17

Residential Tenancy Policy Guideline 17 states the following, in part (emphasis added):

*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. 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.*

As per the above, I am required to deal with the tenant's security deposit because the tenant applied for its return. The tenant did not appear at this hearing to provide evidence regarding his application to obtain a return of the security deposit. The tenant's entire application was dismissed without leave to reapply, as noted above.

The landlord testified regarding the following facts. The landlord purchased the rental unit in mid-July 2013 and took possession on August 1, 2013. The landlord assumed the tenancy from the previous owner, who had already signed a written tenancy agreement with the tenant. This tenancy began on August 1, 2013 and ended on November 15, 2021. Monthly rent of \$1,200.00 was payable on the first day of each month. A security deposit of \$600.00 was paid by the tenant to the previous owner and it was transferred to the landlord when he purchased the rental unit. The landlord continues to retain the tenant's entire security deposit of \$600.00. A written forwarding address was not provided by the tenant to the landlord.

The tenant provided a copy of the original tenancy agreement with the previous owner, which states that the tenant was required to pay a security deposit of \$600.00. In his online RTB application details, the tenant stated that he paid a security deposit of \$600.00 to the landlord. However, the tenant applied for \$700.00 in this application, when requesting the return of his security deposit.

The landlord confirmed that he obtained a security deposit of \$600.00 from the tenant and that he continues to retain this deposit in full. Over the period of this tenancy, no interest is payable on the landlord's retention of the tenant's security deposit. In accordance with section 38 of the *Act* and Residential Tenancy Policy Guideline 17, I order the landlord to retain the tenant's entire security deposit of \$600.00.

### Conclusion

The tenant's entire application is dismissed without leave to reapply.

I order the landlord to retain the tenant's entire security deposit of \$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: June 28, 2022

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Residential Tenancy Branch