

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with cross applications. The tenant's application is to seek a monetary order as compensation for moving out early to allow the landlords mother to move in and an order to have the security deposit returned. The landlord is seeking an order to retain the security deposit and a monetary order to cover cleaning costs and damage to the rental unit and for unpaid utilities. Both parties participated in the conference call hearing.

### Issues to be Decided

Is either party entitled to any or all of the above items?

### Background and Evidence

Both parties gave affirmed testimony. The tenancy began on or about November 1, 2010. Rent in the amount of \$500.000 is payable in advance on the first day of each month.

The landlord is seeking a monetary order for cleaning costs and utilities. The landlord was unable to produce a receipt for the cleaning. The landlord also gave testimony that there was a verbal agreement in regards to the utilities. The tenant denies that utilities were to be paid by him.

The tenant is seeking a monetary order for work done on the rental unit that he claims was done by verbal agreement with the landlord and compensation for moving out early to allow the landlords mother to move in. The landlord denies there was an agreement. At the outset of the hearing there was some dispute of the security deposit being paid. It was agreed to by both parties that \$250.00 had been paid on November 8, 2010.

However as the hearing progressed the tenant gave evidence that he performed work in the unit in exchange for payment of the security deposit. The landlord denies that was the arrangement. Both parties adamantly disputed the other parties' oral testimony. The documentary evidence given by both parties was neither helpful nor reliable.

### Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, both parties must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. When questioned about each other's oral testimony, both parties would offer a version of the event and then later change details and contradict themselves. In addition, with no documentary evidence to support their claim, I'm left with just their oral testimony. I found both parties to be contradictory in their evidence and unreliable.

### Conclusion

The tenant's application is dismissed.

The landlord's application is dismissed.

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: March 23, 2011.

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Residential Tenancy Branch