



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MND, MNDC, MNR, MNSD

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Is the landlord entitled to retain the security deposit?

### Background and Evidence

The tenancy began on or about November 2010. Rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$212.50. Both parties agree that the tenancy was an oral agreement, no move in or move out condition inspection was done nor any offer to do so and that the tenancy ended on January 27, 2011. At the outset of the hearing the landlord advised she was only seeking an Order to retain the security deposit and that she was abandoning the rest of her application.

### Analysis

As explained to the parties at the outset of the hearing the onus or burden of proof is on the party making the claim, in this case the landlord. 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 their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

In the landlords own testimony she admitted that she had not performed the move in or move out condition inspection as is required by Section 38 of the Residential Tenancy Act.

Conclusion

I dismiss the landlord's application in its entirety.

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: April 07, 2011.

---

Residential Tenancy Branch