



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MNSD, MNR, FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution for an order for unpaid rent, to keep all or part of the security deposit, for money owed or compensation for damage or loss, and to recover the filing fee for the Application.

### **Preliminary Issue**

The Tenants did not appear and the Landlord joined the telephone conference late.

During brief initial questioning, the Landlord repeatedly interrupted me. When questioned about service of the hearing documents on the Tenants, the Landlord could not provide the date of the alleged service by registered mail.

Upon attempting to explain to the Landlord his obligation for providing proof of service of the hearing documents to the Respondents, the Landlord once again interrupted me. When I instructed the Landlord to stop interrupting, he became combative, uttered an expletive and abruptly exited the conference.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order for unpaid rent, to keep all or part of the security deposit, for money owed or compensation for damage or loss, and to recover the filing fee for the Application?

### Background and Evidence

No evidence was submitted by either party, but pursuant to the brief testimony of the Landlord and the Application, the Landlord applied for loss of a half month's rent for December 15-31, 2010.

Before abruptly exiting the conference, the Landlord implied that the amount claimed, \$367.50, was the amount of the security deposit paid by the Tenants. However, no proof of this amount was submitted.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations, the Landlord in this case, has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

The Landlord failed to provide any documentary evidence or testimony in support of his claim and failed to prove the Tenants were served with the Notice of Hearing documents. I therefore **dismiss** the Landlord's Application in its entirety, without leave to reapply.

As the Landlord was not successful with his application, I find he is not entitled to recover the filing fee.

As I have dismissed the Landlord's claim in its entirety, I find that the Landlord is **not** entitled to retain **any** portion of the security deposit or applicable interest and is directed to return the security deposit, plus any applicable interest to the Tenants, pursuant to section 38 of the *Residential Tenancy Act*.

### Conclusion

The Landlord's Application is dismissed, without leave to reapply.

The Landlord is directed to return the security deposit, plus any applicable interest, to the Tenants.

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 06, 2011.

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Residential Tenancy Branch