



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNR, MNDC, MND, FF

### Introduction

This hearing dealt with cross applications. The landlord is seeking a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants have filed an application seeking the return of their deposit. The tenants confirmed that they received the landlords' Notice of Hearing letter, Application for Dispute Resolution and evidence. The landlord confirmed that he received the tenants' Notice of Hearing letter and Application for Dispute Resolution. I am satisfied that the parties have exchanged said documents in accordance with the service provisions of the Act and the Rules of Procedure. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### Issue to be Decided

Is either party entitled to a monetary order as claimed?

### Background, Evidence

The tenants' testimony is as follows. The tenancy began on August 1, 2014 and ended on October 31, 2014. The tenants were obligated to pay \$3000.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$1500.00 security deposit. The tenant stated that they forgot to submit any documentary evidence for this hearing. The tenant stated that the landlord returned \$1000.00 of the deposit but withheld \$500.00 without their agreement. The tenant stated that they did not provide the

landlord with their forwarding address in writing but thought that by serving the Notice of Hearing documents was sufficient.

The tenant stated that they left the unit clean and undamaged. The tenant stated that they feel the tenancy agreement clearly states that the tenancy ended on October 31, 2014 and that no notice is required.

The landlord gave the following testimony. The landlord stated that the tenancy agreement states that the tenancy could continue on a month to month basis after the fixed term. The landlord stated that the tenants often told him they would stay 8-10 months. The landlord stated that he did not receive notice that the tenants would be moving out. The landlord stated that they moved and he incurred one months' loss of revenue for November. The landlord stated that the unit was left dirty and damaged. The landlord stated that the walls had many holes in them that needed to be patched and painted. The landlord stated that the unit required extensive cleaning at move out.

The landlord stated that the tenants did not provide a forwarding address in writing. The landlord stated that he thought that since the tenants filed an application to dispute the deposit, there was no urgency to do so as it would be addressed anyways. The landlord stated that he did not receive the tenants forwarding address at any time.

### Analysis

The landlord submitted documentary evidence for this hearing, the tenant did not.

I first address the landlords' claims and my findings as follows.

**Landlords First Claim** – The landlord is seeking \$3000.00 for loss of revenue for the month of November 2014. The landlord provided a tenancy agreement that shows the tenancy could continue on a month to month basis upon its conclusion on October 31, 2014. The landlord stated despite his best attempts he was unable to rent the unit for any portion of November. The landlord stated that he cleaned and repaired the unit to

make it more attractive to potential renters and aggressively advertised the unit. Policy Guideline 30 addresses this issue as follows:

If the tenant wishes to vacate the premises at the end of the fixed term, but is not otherwise required to vacate the premises at the end of the fixed term, the tenant must give notice of intent to vacate the premises in the rental period prior to the rental period in which the tenant wishes to vacate the premises and not less than one month prior to the end of the fixed term.

Based on the above I am satisfied that the landlord made all reasonable attempts to mitigate his losses and I find that the landlord is entitled to \$3000.00.

**Landlords Second Claim** – The landlord is seeking \$840.00 for cleaning the suite and patching and painting the walls. Both parties agreed that condition inspection reports were not conducted at move in or move out. In addition, the photos the landlord is relying on are of questionable quality and of little help. The landlord was unable to provide a clear depiction of how dirty the unit was left as he alleges. It was explained in great detail to the landlord the vital and useful nature of the inspection report. Without the condition inspection report or any other supporting documentation I am unable to ascertain the changes from the start of tenancy to the end of tenancy, if any. The landlord has not provided sufficient evidence to support this portion of his claim and I therefore dismiss this portion of their application.

It is worth noting that the tenant did not provide their forwarding address in writing at the end of the tenancy as is required by the Act. I find that it is reasonable that the landlord assumed that the security deposit would be dealt with at this hearing; therefore, they likely did not return the security deposit or make an application to retain it, prior to this hearing, for this reason.

The landlord has been partially successful in his application and is entitled to the recovery of \$50.00 filing fee.

As the landlord has been successful in this hearing the security deposit will be awarded to him in partial satisfaction of his claim. Based on the above, I hereby dismiss the tenants claim for the return of the \$500.00.

### Conclusion

The landlord has established a claim for \$3050.00. I order that the landlord retain the \$500.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2550.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenants' application is dismissed 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: July 13, 2015

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Residential Tenancy Branch

