



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes                      MNSD, MNDC, MNR, O, FF

### Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlords application is a request for a monetary order for \$1750.00, the landlord is also requesting that the tenants bear the \$50.00 cost of the filing fee that was paid for his application for dispute resolution.

The tenant's application is a request for return of the full security deposit of \$1750.00 and is also a request for the landlord to pay the \$50.00 cost of the filing fee which was paid for their application for dispute resolution.

### Background and Evidence

The landlord testified that:

- The tenants signed a long-term, 18 month lease and vacated well before the end of that lease.

- He was able to re-rent the unit but not until one month after the tenants vacated and therefore he lost one full months rent of \$1750.00.
- The also had to reduced the rent to be able to re-rent the unit however he is not claiming any further loss.

The landlord is therefore requesting that he be allowed to keep the full security deposit of \$1750.00 to cover his loss.

The tenants testified that:

- They did sign a long-term lease however on the move in inspection report the landlord had agreed to do numerous repairs during the tenancy and even though they made frequent requests for those repairs to be done, the landlord had only done a couple of the repairs.
- They decided that since the landlord was not doing the repairs, he had broken their tenancy agreement and they therefore decided to vacate.
- When they vacated they inform the landlord that he could keep one half of the security deposit but they believed the other half should be returned.
- They now believe that the full security deposit should be returned, because they believe it was the landlord who broke the tenancy agreement not them.

The tenants are therefore requesting an order that the landlord returned their full security deposit of \$1750.00.

### Analysis

It is my decision that the tenants did not have the right to break this lease.

On the move in inspection report it states that these repairs are to be completed during the tenancy. The landlord had done a couple of the repairs and at the time the tenants decided to vacate, the tenancy was only three months old and therefore there was still plenty of time for the landlord to complete the repairs during the tenancy.



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It is also my finding that the repairs cannot be considered a material term of the tenancy agreement, in fact they are not even on the tenancy agreement they are just part of the move in inspection report.

Even if the repairs were a material term of the tenancy agreement, the tenants still had the right to file for dispute resolution to get an order for the repairs to be done and they failed to do so.

Therefore it is my decision that the tenants are liable for the lost revenue suffered by the landlord, and I therefore allow the landlords full claim of \$1750.00. The landlord had also applied for the \$50.00 filing fee however at the hearing he stated that all he is asking for at this time is to be able to retain the amount that he holds which is the \$1750.00.

### Conclusion

The tenant's application is dismissed in full without leave to reapply, and I hereby ordered that the landlord may retain the full \$1750.00 security deposit that he holds.

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: December 08, 2009.

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Dispute Resolution Officer