



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes            MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order to keep all or part of the security deposit and a Monetary Order to recover the filing fee.

Service of the hearing documents was done in accordance with section 89 of the *Act*. The tenant confirmed she had received them.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

Is the landlord entitled to keep all or part of the security deposit and interest?

### Background and Evidence

Both parties agree that this month to month tenancy started on October 01, 2008 and the tenant moved into the rental unit on October 05, 2008. Rent for this unit was \$800.00 per month which was due on the first of each month. The tenant paid a security deposit of \$400.00 on September 26, 2008. The landlord did not complete a move in or move out condition inspection report. The tenant gave the landlord her forwarding address in writing.

The landlord testifies that at the end of the tenancy the tenant did not clean the oven or the carpets in the rental unit. The landlord claims that the tenant had brought two cats into the unit

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for a period of time during the tenancy without written permission and in breach of the tenancy agreement. Due to this the landlord expected the tenant to clean the carpets at the end of the tenancy. The carpets were three years old. The landlord claims he obtained two quotes to have the carpets steam cleaned and decided that he would clean them to save costs to the tenant. The landlord claims he borrowed a carpet cleaning machine and it took three and half hours to clean the carpets in two bedrooms and the hall. The landlord claims \$87.50 for this work plus \$12.50 for cleaning supplies.

The landlord testifies that the tenant failed to clean the oven at the end of her tenancy. This took the landlord one hour at \$25.00 per hour to clean the oven plus \$6.00 for cleaning supplies.

The tenant claims she did clean the carpets at the end of her tenancy. She claims the landlords photographs show her hand-held cleaning machine that she used to do this work. She started the work one day and returned the next day to complete the job. The tenant states the landlord was aware that she had cleaned the carpets because she was informed on her return the next day that the landlord had opened the windows to help dry the carpets because new tenants were moving in.

## Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. Sections 23 and 35 of the *Residential Tenancy Act* states that a landlord must complete a condition inspection report at the beginning of a tenancy and at the end of a tenancy in accordance with the Regulations and provide a copy of it to the tenant (within 7 to 15 days). A condition inspection report is intended to serve as some objective evidence of whether the tenant is responsible for damages to the rental unit during the tenancy or if she has left a rental unit unclean at the end of the tenancy.

I find the landlord did not do the written condition inspection reports required by section 24 and 36 of the *Act*. There was no evidence to show that the tenant had agreed, in writing, that the landlord could retain any portion of the security deposit, plus interest. Consequently the landlord



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has extinguished his right to keep any of the tenants' security deposit for cleaning of the rental unit pursuant to s. 36(2) of the *Act*.

The landlord has received the tenants forwarding address and request for the return of her security deposit in writing, however this letter is undated. I therefore, **Order the landlord** to return the tenants security deposit of \$400.00 plus accrued interest of \$1.59 to a total amount of **\$401.59** within 15 days of today's date.

As the landlord has been unsuccessful with his claim I find he must bear the cost of filing his own application.

## Conclusion

The landlords' application to retain the security deposit and recover the filing fee is dismissed without leave to reapply.

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: February 03, 2010.

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Dispute Resolution Officer