



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by two agents representing the landlord and the tenant.

### Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted a copy of a tenancy agreement signed by the parties on April 3, 2001 for a 1 year fixed term tenancy that began on April 1, 2001 that converted to a month to month tenancy on April 1, 2002 for a monthly rent at the end of the tenancy of \$1,184.00 due on the 1<sup>st</sup> of the month. A security deposit of \$495.00 was paid on April 1, 2001.

The landlord has submitted a copy of a Tenant Suite Inspection, Key and Security Deposit form showing it had been inspected on April 1, 2001 for the move in inspection and on March 31, 2010 for the move out inspection. The tenant has not signed in either signature blocks for the move in or the move inspections. The tenant confirmed that she attended the move out inspection but didn't sign it, as she disagreed with the report.

The inspection report indicates the stove, fridge, and bathtub/sink required cleaning. The landlord has submitted photographs to indicate a cupboard drawer required

additional cleaning as well as a ceiling fan and the floors needed mopping, none of which is indicated in the move out inspection.

The inspection report also had a notation at the bottom that the tenant was using her own blinds and that the drapes for living room, dining room and bedroom were in storage. The tenant confirmed this in the hearing.

The landlord has submitted that the tenant was provided with the return of all of her security deposit plus interest less the amount of this claim, including the filing fee, calculated as follows:

$$\$495.00 + \$29.10 - \$135.00 = \$389.10.$$

The landlord included in the cheque they provided to the tenant an additional \$82.23 for fob deposits plus interest for a total cheque of \$471.33. The tenant acknowledged receipt of this cheque.

### Analysis

I note the tenancy agreement states the tenant agrees to leave the vacated premises in a reasonably clean condition, otherwise will be subject to claims by the Landlord under the Act. I also note in the Inspection report there is also a clause that states the tenant agrees to leave the apartment in a clean condition upon vacating including carpet and drapery cleaning.

I accept the tenant's testimony that she did not use the landlord's drapes, and as such I find that she is not responsible to have them cleaned at the end of the tenancy, I dismiss this portion of the landlord's application.

Section 37 of the *Act* states that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for normal wear and tear. As the landlord is not claiming any damage to the rental unit, it is clear the landlord's claim rests on the rental unit being reasonably clean. This expectation is reiterated in the tenancy agreement.

I am persuaded by the tenant's testimony and photographic evidence that the rental unit was left in reasonably clean condition. I therefore find the tenant is entitled to return of the remainder of her security deposit. I concur with the landlord's calculation of interest owed on the security deposit and have attached to this decision the calculation as completed on the online Deposit Interest Calculator, at today's date.

Conclusion

Based on the above analysis, I dismiss the landlord's application, in its entirety, without leave to reapply.

I find that the tenant is entitled to monetary compensation pursuant to Section 67 and grant a monetary order to the tenant in the amount of **\$135.00** comprised of the balance owing of a security deposit and interest held.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: August 23, 2010.

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Dispute Resolution Officer