



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD, MNDC, 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 that were submitted on time, however the respondent submitted some evidence that was well past the required final date for submissions and therefore that evidence will not be considered.

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 is a request for a monetary order for \$1380.00, the applicant is also requesting that the respondent bear the \$50.00 cost of the filing fee.

### Background and Evidence

The applicant testified that:

- The tenants notice to end tenancy was received on March 2, 2010, which is 2 days late and since he was unable to re-rent the unit for an April 2010, he wants the tenant to bear that loss, especially since the tenant made it very difficult to show the rental unit.

Residential Tenancy Branch  
Ministry of Housing and Social Development

- The tenant also stored some of her belongings in the laundry room of the rental property and this was not an area that was included in the tenancy agreement and therefore he believes the tenant should be paying storage charges for 11 months.
- The tenant also left a large amount of garbage behind when she vacated and he had to haul the garbage to the dump.
- The tenant also left extensive damage to the rental unit and as a result unit had to be repainted, had to have new floors, had to have the cabinets repaired, and required cleaning, and therefore he has retained the tenant's security deposit to cover these charges, which far exceed the amount of the security deposit.

The applicant is therefore requesting a claim as follows:

Lost rental revenue for April 2010	\$600.00
Garbage removal	\$50.00
Retain security deposit for damages	\$300.00
Filing fee	\$50.00
Total	\$1220.00

The respondent testified that:

- Her Notice to End Tenancy was put in the landlord's mailbox on February 27, 2010 and therefore it was more than one month notice.
- She did not make it difficult to show the rental unit, she only requested the proper 24 hours notice required under the Residential Tenancy Act.
- The landlord had allowed her to store items in the laundry room right from the beginning of the tenancy, and it was only two weeks before the end of the tenancy that he requested that she remove those items and therefore she does not believe she should have to pay for storage as this was allowed by the landlord.

- She did not leave any garbage behind at the end of the tenancy, and she believes the garbage that the landlord had to haul away was from the other tenants in the property who are always leaving garbage outside the door.
- She also caused no damage to the rental unit while she was there and left the unit in a very clean condition.
- She disputes the landlords photo evidence and does not believe that the photos were all taken in her rental unit, pointing out that the photo taken of a dirty refrigerator shows that the refrigerator has a set of cabinets on the left-hand side however the refrigerator in her suite did not have any cabinets on the left-hand side and in fact all of the cabinets were on the right of the refrigerator.
- She believes the landlord has fabricated this whole claim and that her full security deposit should be returned.

## Analysis

### Lost rental revenue

It is my decision that I will allow the landlords claim for lost rental revenue for the month of April 2010.

The tenant testified that she put her Notice to End Tenancy in the landlord's mailbox on February 27, 2010 however a document served in this manner is not considered served until three days later and therefore it's considered served on March 2, 2010.

Any notice served in the month of March 2010 is valid for the end of the following month and therefore if the landlord was unable to re-rent the unit for the month of April 2010 the tenant is liable for that lost revenue.

### Storage fees

It is my decision that I will not allow the claim for storage fees.

Storage space in the laundry room may not have been included in the tenancy agreement however the landlord allowed the tenants to store items there and did not make any request to remove the items until near the end of the tenancy.

It is my finding that even though the laundry room storage was not in the tenancy agreement it was allowed during the tenancy and the landlord may not charge for storage.

### Damages and garbage removal

It is my decision that the landlord has not met the burden of proving that the tenant caused damages to the rental unit or left a large amount of garbage behind.

The landlord has supplied no move-in inspection or move-out inspection report and therefore it's basically just his word against that of the tenant. The burden of proving a claim lies with the applicant and when it is just the applicants word against that of the respondent that burden of proof is not met.

Further I find the landlords photo evidence to be suspect, as I have viewed the photos mentioned by the tenant and the photo of the dirty refrigerator supplied by the landlord as evidence clearly shows that there is a cabinet to the left of that refrigerator; however the photo of the kitchen taken from the living room, which was also supplied by the landlord, clearly shows that there was no cabinet to the left of the refrigerator in the tenants suite.

The claims for damages and garbage removal are therefore denied.

I will allow the claim for the filing fee, because the landlord has still established a \$600.00 claim against the tenant.



# Dispute Resolution Services

Page: 5

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Conclusion

I have allowed \$650.00 of the landlords claim. The landlord may therefore retain the full security deposit of \$300.00 and I have issued an order for the tenant to pay \$350.00 to the landlord.

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: September 30, 2010.

---

Dispute Resolution Officer