



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNDC, MNSD, RPP, 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 and their witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

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 landlord. Both files were heard together.

The tenant's application is a request for a monetary order for \$3243.93.

The landlords application is a request for a monetary order for \$2562.00, the landlord is also requesting that the respondent bear the \$50.00 filing fee that he paid for his application for dispute resolution.

## Background and Evidence

The tenant testified that:

- Shortly after moving into the rental unit they found black mould in the master bedroom and as they believed it was making them sick they moved into a hotel and stayed there for 21 days at a cost of \$97.33 per day for a total of \$2043.93.
- When they moved into the rental unit they found unit filthy and damaged and as a result they had to do extensive cleaning and repairs.
- The landlord has failed to return their security deposit of \$500.00.
- When they were moving out the landlord told them he would pay them \$200.00 for moving truck however after they got the truck he refused to pay them.

The tenants are therefore requesting a claim as follows:

Hotel costs	\$2043.93
Cleaning and repairs	\$500.00
Moving/storage costs	\$200.00
Total	\$3243.93

The landlord testified that:

- The tenants did not move out due to mould, they moved out because their electricity was cut off when they failed to put the electrical bill in their name.
- He never agreed to pay for any cleaning and repairs at the beginning of the tenancy.
- He did agree to pay \$200.00 towards a moving truck but only if they removed all their belongings, and they failed to do so leaving a large number of items behind.
- He has not returned the security deposit because of the poor condition in which the rental unit was left and because they still have a substantial amount of rent outstanding.
- The tenants abandon the house leaving it in extremely poor condition.

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- The floors are covered in feces and urine as were beds and mattresses.
- A large amount of garbage, and urine and feces soaked furniture was left behind that had to be removed to the dump.
- The whole house was filthy and needed extensive cleaning.
- The electricity had been cut off and he had to pay to have it reconnected
- The keys were not returned and he has to have the locks changed.

Landlord is therefore requesting a claim as follows:

Cleaning the floors	\$150.00
Cleaning charges	\$350.00
Electrical hook-up and change locks	\$62.00
Cash given to tenant	\$120.00
Keep security deposit	\$500.00
Rent awarded in previous order	\$1180.00
Filing fee	\$50.00
Total	\$2612.00

## Analysis

It is my decision that neither the landlord nor the tenants have established their claims against each other.

The tenant is claiming that they stayed in a hotel for 21 days due to the black mould being found in the master bedroom of the rental unit; however the tenant has provided no evidence of having stayed in a hotel nor is there any evidence that the alleged black mould was toxic or causing any illness.

Both the landlord and the tenants are claiming substantial cleaning/repair costs; however the photo evidence provided by the landlords and the tenants shows that

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although the rental unit was in poor condition when the tenants moved in, it was in equally poor condition when the tenants moved out and therefore I will not allow either the tenant or the landlords claim for cleaning/repairs.

The landlord also claims that he had to pay an electrical hook-up fee and has costs for changing the locks however the landlord has supplied no evidence of these costs and therefore I also deny that portion of the landlords claim.

The landlord also is claiming \$120.00 which he says he gave to the tenant to ensure that the tenant fully vacated however it is my finding that this is an agreement that is separate from the residential tenancy and therefore I have no jurisdiction over this portion of the claim.

The landlord was also claiming \$1180.00 because the tenant has not paid the \$1180.00 that was ordered in a previous dispute resolution hearing; however the landlord already has an order for this amount and I will not issue a second order for the same amount.

The tenants have applied for the return of their security deposit; however the tenants did not give the landlord a forwarding address in writing, as required by the Residential Tenancy Act, prior to applying for dispute resolution.

Therefore at the time that the tenants applied for dispute resolution, the landlord was under no obligation to return the security deposit and therefore this application is premature.

Further since the landlord already has a monetary order against the tenant in the amount of \$1180.00; Section 72 of the Residential Tenancy Act allows the landlord to



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apply the security deposit towards that Order. Therefore I will not issue an order for the return of the security deposit to the tenant.

## Conclusion

Both the landlord's and the tenant's applications are dismissed in full 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: December 06, 2010.

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Dispute Resolution Officer