



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      MNSD, MND, FF

### Introduction

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

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail to each tenant on September 13, 2010. Mail receipt numbers were provided in the landlord's documentary evidence. The tenants were deemed to be served the hearing documents on September 18, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords agents appeared, gave affirmed testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for damages?
- Is the landlord entitled to an Order to keep the security deposit?

### Background and Evidence

The landlords' agent testifies that this tenancy started on March 01, 2010. This was a fixed term tenancy which expired on August 31, 2010. Rent for this unit was \$1,100.00 per month and was due on the first day of each month. The tenants paid a security deposit of \$550.00 on February 26, 2010. The tenants vacated the rental unit on August 31, 2010.

The landlords' agent testifies that the tenants had contravened two Strata Bylaws, one for excessive noise and one for garbage. The landlords' agent states the tenants were aware that they must comply with the Bylaws and rules of the Strata Corporation and had signed Form K concerning this when they moved into the unit. The tenants were also given a copy of the Strata Bylaws at that time.

The tenants and landlord were sent letters from the Strata Council advising them that fines of \$200.00 for each infraction would be levied. The tenants were given the opportunity to respond to these letters but failed to do so and the landlord was fined \$400.00 for the tenants' infractions. At the move out condition inspection the landlords' agent noted one of these fines for excessive noise on the move out inspection form and the tenants agreed that the landlord could deduct the amount of \$200.00 from their security deposit. At this inspection the tenants also agreed the landlord could deduct \$10.00 for a key that was not returned. However the landlords' agent states it was an oversight on their part that the fine for the garbage was not included on the move out inspection form. He states he called the tenants about this but they refused to reimburse the landlord the additional \$200.00 so the landlords agent filed his application for Dispute Resolution to recover it.

### Analysis

The tenants did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence

from the tenants, I have carefully considered the landlords documentary evidence and affirmed testimony before me.

The tenants would have been aware that they must abide by the rules and Bylaws of the Strata Corporation and had signed a form agreeing to this. The letters sent to the tenants show that they were in violation of two of these Bylaws and as such were asked to respond and failed to do so. Consequently, the landlord was fined a sum of \$400.00. It is therefore my decision that the landlord may recover this from the tenants and may keep **\$400.00** from their security deposit (\$200.00 of which was already agreed by the tenants) pursuant to s. 38 (4) (b) of the *Act*.

I further find the tenants had agreed the landlord may deduct **\$10.00** for a key to the unit which was not returned and the landlord may also deduct this from the security deposit as agreed.

As the landlord has been successful he is also entitled to recover his **\$50.00** filing fee from the tenants pursuant to s. 72(1) of the *Act*.

### Conclusion

I HEREBY FIND in favor of the landlords claim to keep part of the tenant's security deposit. I ORDER the landlord to keep **\$460.00** from the security deposit leaving a balance **\$90.00** which must be returned to the tenants.

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: January 14, 2011.

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Residential Tenancy Branch