



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

A substantial amount of documentary 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 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.

### Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The tenant's application is a request for return of her full security deposit in the amount of \$382.50.

The landlord's application is a request to retain the full security deposit of \$382.50 and a request that the tenant bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution.

### Decision and reasons

Both the landlord and tenant agree that the tenant was given the proper opportunities to participate in a move out inspection.

The tenant admits that although she was given the opportunity to participate in the move out inspection she was unable to do so; however she never informed the landlord that she was unable to participate.

It is my decision that since the tenant failed to participate in the move out inspection, after having been given the proper opportunities to do so, her right to the return of her security deposit has been extinguished.

Therefore the landlord has the right to retain the full security deposit.

It is my decision however that I will not allow the landlords claim for the filing fee, because the landlord admits that the tenant did contact him to attempt to resolve the dispute before he applied for dispute resolution; however he was not willing to discuss the matter with her.

Therefore there is a possibility dispute resolution could have been avoided had the landlord spoken with the tenant, and it is my decision that the landlord must bear the cost of the filing fee.

### Conclusion

#### Tenant's application

The tenant's application is dismissed in full without leave to reapply.

#### Landlord's application

I order the landlord may retain the full security deposit of \$382.50. The landlords claim for the \$50.00 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 16, 2011.

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Residential Tenancy Branch