



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MNSD

### Introduction

This matter dealt with an application by the tenant for the return of her security deposit.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was hand delivered to the landlord on December 07, 2010. The landlord confirms receipt of the hearing documents.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issue(s) to be Decided

- Is the tenant entitled to recover her security deposit?

### Background and Evidence

Both parties agree that this month to month tenancy started on September 01, 2009. Rent for this unit was \$900.00 per month and the tenant paid a security deposit of \$450.00 on August 14, 2009.

The tenant testifies that the landlords did not complete a move in or a move out condition inspection at either the start or end of the tenancy. The tenant states she vacated the rental unit on October 28, 2010 and cleaned the unit at the end of her tenancy. The tenant states she gave the landlords her forwarding address in writing on December 03, 2010 and they have failed to return her security deposit.

The landlords testify that they did a walk through of the unit with the tenant and requested that the unit was left in the same condition at the end of the tenancy as it was at the start of the tenancy. The landlords claim the tenant has not cleaned the unit thoroughly before she moved out and they withheld her security deposit. The landlords state they did offer to return \$150.00 of her deposit but at this time no sums have yet been returned to the tenant.

### Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. Sections 23 and 35 of the Act say that a landlord must complete a condition inspection report at the beginning of a tenancy and at the end of a tenancy in accordance with the Regulations and provide a copy of it to the tenant (within 7 to 15 days). A condition inspection report is intended to serve as some objective evidence of whether the tenant is responsible for damages to the rental unit during the tenancy or if she has left a rental unit unclean at the end of the tenancy.

The purpose of having both parties participate in a move in condition inspection report is to provide evidence of the condition of the rental unit at the beginning of the tenancy so that the Parties can determine what damages were caused during the tenancy or what cleaning is required at the end of the tenancy. In the absence of a condition inspection report, other evidence may be adduced but is not likely to carry the same evidentiary weight especially if it is disputed.

In failing to complete the condition inspection reports when the tenant moved in and out, I find the landlord contravened the above sections of the *Act*. Consequently, s. 24(2)(a) and s. 36(2)(a) of the *Act* says that the landlord's right to claim against the security deposit for damages is extinguished and the tenant is therefore entitled to recover her security deposit from the landlord and a Monetary Order has been issued to the tenant for the sum of **\$450.00**.

### Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$450.00**. The order must be served on the respondents and is enforceable through the Provincial Court 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: April 07, 2011.

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Residential Tenancy Branch