



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for loss of revenue and damages to the unit - Section 67;
2. An Order to retain the security deposit - Section 38
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matter

At the onset of the hearing, the Landlord confirmed that the second person named in the application was not a Tenant and was not named as a tenant on the tenancy agreement. As a result, the application has been amended to remove the second named person as a tenant.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on June 1, 2010 with a one year term to May 31, 2011 and ended on March 31, 2011. Rent in the amount of \$900.00 was payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$450.00. The Tenant is 83 years old.

The Landlord states that the Tenant failed to give one month's notice to end the tenancy and claims one month's rent in damages. The Landlord states that she moved into the unit on April 2, 2011 and did not incur any losses in relation to rental income. The Tenant states that an email was sent to the Landlord on February 28, 2011 giving notice that the Tenant would move out on March 31, 2011. The Landlord states that this email was not received as the address was incorrect.

The Landlord states that the Tenant left safety handrails installed in the bathroom and did not remove them at the end of the tenancy. The Landlord states that one estimate was obtained for the removal of the handrails in the amount of \$440.00 and states that this seemed like an outrageous charge for such removal. The Tenant states that when the tenancy was first discussed, the Landlord's agent gave the Tenant permission to install the safety handrails in the bathroom as long as they looked good and the job was well done. The Tenant states that the Landlord's agent did not require the Tenants to remove the handrails at the end of the tenancy. The Landlord states that no such agreement was made.

### Analysis

In a claim for damage or loss under the Act, the party claiming costs for the damage or loss must prove that a loss has been incurred or established and that such a loss was caused by the actions or neglect of the responding party. Given the evidence of the Landlord that the unit was occupied by the Landlord at the end of the tenancy and that no loss was incurred as a result of the ending of the tenancy by the Tenants, I find that the Landlord has not established any loss of rental income. I therefore dismiss this part of the Landlord's claim.

The Landlord did not provide any evidence from the agent to dispute the Tenant's assertion of the agreement made with the agent. Further, given the Tenant's age, such an agreement would be reasonably made in considering whether or not to enter into a tenancy. Accordingly, I accept the Tenant's evidence that the agent agreed at the

beginning of the tenancy that the Tenant could install the safety handrails. I therefore dismiss this part of the Landlord's application.

As the Landlord's claim has been unsuccessful, I make no order in relation to the recovery of the filing fee. As the Landlord is still holding the Tenant's security deposit and no claim against this deposit has been successful, I direct the Landlord to return the full amount of the security deposit plus interest forthwith to the Tenant.

Conclusion

The Landlord's application is dismissed.

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: August 02, 2011.

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Residential Tenancy Branch