



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, 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 unpaid rent, damage to the unit and compensation for loss - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy of a one year lease began on July 1, 2010 and was to end on June 30, 2011. Rent in the amount of \$890.00 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 Tenants in the amount of \$445.00 and a key deposit in the amount of \$35.00. The Tenants failed to pay rent for the month of September 2010 and accepting the Landlord’s notice to end tenancy for failure to pay rent, the Tenants vacated the unit on

September 23, 2010. The Tenants signed an agreement on September 23, 2011 accepting charges for carpet cleaning as well as September and October 2010 rent in the total amount of \$1,905.00. The Tenant made four payments toward this agreement on November and December 2010 and January and February 2011 each in the amount of \$500.00. The cheques for November 2010, January and February 2011 were returned N.S.F.

No further payments were received from the Tenant and the Landlord elected to pursue their claim by making an application for dispute resolution. The Landlord claims the same amounts as previously agreed to by the Tenant as well as claims for unpaid utilities in the amount of \$32.81, late charges for unpaid September 2010 rent, the N.S.F. charges for the cheques returned in November 2010, January and February 2011, and the amount of \$300.00 for liquidated damages.

#### Analysis

Given the agreement of the Tenant, at the end of the tenancy, to accept charges for carpet cleaning and September and October 2010 rent, and considering the payments made toward that agreement, I find that the Landlord elected to compromise and enter into a settlement of claims in relation to the tenancy. As such I find that the Landlord has established the claim contained in the agreement and has forfeited any rights to additional charges as contained in the application. The Landlord is therefore entitled to the amount of \$1,905.00 less the \$500.00 received in December 2010, leaving a remaining entitlement of \$1,405.00. The Landlord is also entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$1,450.00**. The **security and key deposit** will be off-set from the award made herein.

#### ***Calculation for Monetary Order***

Agreed charges less payment received	\$1,405.00
Filing fee	50.00
Less Security Deposit and interest <i>to date</i>	-445.00
Less Key deposit	-35.00
<b>Total Monetary Award</b>	<b>\$975.00</b>

Conclusion

**I order** that the Landlord retain the **security deposit** and interest of \$445.00 and the key deposit of \$35.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$975.00**. If necessary, this order may be filed in the Small Claims Court and enforced 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: August 19, 2011.

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Residential Tenancy Branch