



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD and FF

### Introduction

This application was brought by the tenants on July 27, 2011 seeking return of a portion of their security deposit retained by the landlord without their consent or application to make a claim against it.

### Issue(s) to be Decided

This matter requires a decision on whether the tenants are entitled to a Monetary Order for return of all or a portion of their security deposit and whether the amount should be doubled.

### Background and Evidence

The tenancy in dispute began on September 1, 2010 and ended on June 30, 2011. Rent was \$650 per month and the landlord held a security deposit of \$325 paid on August 9, 2010.

During the hearing, the parties gave evidence that the tenants had vacated the rental unit on June 22, 2011 without advising the landlord that they were leaving the tenancy early and without providing a forwarding address.

The tenants did provide a forwarding address sent by email on July 1, 2011 and it is noteworthy that the new address was in another city considerably distant from that of the rental unit.

The landlord stated that she had provided the tenants with an information sheet in early June which outlined the responsibilities of tenants at the conclusion of the tenancy and that sheet included the necessity of arranging completion of a joint move-out condition inspection report. The landlord stated that the tenants had vacated before she had the opportunity to offer them the two opportunities to complete the inspection as required under section 35 of the *Act*.

As a result, the landlord completed the inspection on her own. While the inspection report notes that the rental unit was dirty, the landlord has made no claim for cleaning. Subsequently, the landlord advised the tenants by email that the strata corporation which governs the rental building had imposed a charge of \$88.75 as they had video evidence that the tenants had exceeded the dumpster limits by placing furniture in or near it.

The landlord advised the tenants by email of the claim and subsequently returned \$236.25 of the deposit.

On the tenants' initial challenge of the claim, the landlord queried the strata manager and the caretaker who confirmed the belief that the excess refuse was from the subject rental unit.

The tenants submitted evidence from persons who had assisted with the move and who stated they had placed nothing in the bin in question.

The tenant stated that he had no opportunity to see the video and reaffirmed his position that it did not contain material from the rental unit or images of him.

### Analysis

Section 36 of the *Act* provides that a tenant's right to return of a security deposit is extinguished if the tenant does not respond to the two opportunities offered by the landlord to conduct the joint move-out condition inspection.

In the present matter, I find that by moving out early and leaving town without notice to the landlord, the tenants undermined the landlord's opportunity to offer them two dates for the conduct of the inspection.

Consequently, I find the failure to conduct the joint move-out condition inspection report was a result of the conduct of the tenants and that their right to return of the deposit was extinguished.

Having so found, I find the question of whether tenants improperly imposed on the garbage disposal program of the strata corporation to be moot.

Conclusion

The application 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: November 01, 2011.

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Residential Tenancy Branch