



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPB MNSD MNDC FF  
                             MNSD FF

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking an Order of Possession for breach of an agreement, and a Monetary Order to keep the security deposit, for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement, and to recover the cost of the filing fee from the Tenant for this application.

The Tenant filed seeking a Monetary Order for the return of her security deposit and to recover the cost of the filing fee from the Landlord for this application.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, served personally, to the named Landlord to this dispute, by the Tenant's Witness on December 7, 2011, as affirmed by the Witness during the hearing. Based on the submissions of the Tenant's Witness I find the Landlord to have been sufficiently served notice of this proceeding.

The Tenant and her Witness appeared at the teleconference hearing however no one appeared on behalf of the Landlords even though this hearing was convened to hear the Landlords' application for Dispute Resolution as well as the Tenant's application.

### Issue(s) to be Decided

1. Has the tenancy end prior to this hearing?
2. Has the Tenant provided the Landlords with her forwarding address in writing prior to making this application?

### Background and Evidence

At the outset of the hearing the Tenant affirmed she entered into a fixed term tenancy agreement with the Landlords that began on September 1, 2011 and was set to expire August 31, 2012. Rent was payable on the first of each month in the amount of \$1,000.00 and on August 23, 2011 the Tenant paid \$1,000.00 as the deposits, which the Landlords referred to as last month's rent.

The Tenant advised she vacated the rental unit January 2, 2012 after being served an eviction notice the same day she paid her December 2011 rent of \$1,000.00. She is seeking to have the \$1,000.00 deposit returned from the Landlord.

The Tenant confirmed she has not yet provided the Landlords with her forwarding address in writing.

### Analysis

#### **Landlords' Application**

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the Director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

In the absence of the Applicant Landlords, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the Applicant Landlords called into the hearing during this time. Based on the aforementioned I find that the Landlords have failed to present the merits of their application and the application is hereby dismissed, without leave to reapply.

#### **Tenant's Application**

The Tenant has applied for the return of her security deposit; however the Tenant has not met the burden of proving that she gave the Landlord(s) a forwarding address in writing, as required by the Residential Tenancy Act, prior to applying for dispute resolution.

Therefore in the absence of any proof that a forwarding address in writing was given to the Landlords, it is my finding that, at the time that the Tenant applied for dispute resolution, the Landlords were under no obligation to return the security deposit and therefore this application is premature. Accordingly, I dismiss this claim with leave to re-apply.

Conclusion

I HEREBY DISMISS the Landlords' claim, without leave to reapply.

I HEREBY DISMISS the Tenant's claim, with 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 14, 2012.

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Residential Tenancy Branch