



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR MNSD FF

### Introduction

This hearing dealt with application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim, and an application by the tenant for double recovery of the security deposit. Both landlords, the tenant and an advocate for the tenant participated in the conference call hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. I have reviewed all testimonial and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on January 1, 2011 as a fixed-term tenancy to end on December 31, 2011. The rental unit is a suite in the lower portion of the landlord's house. Rent in the amount of \$750 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 \$375. On October 26, 2011 the tenant gave the landlord notice that she intended to move out of the rental unit by the end of November 2011. The tenant vacated the rental unit by November 30, 2011.

### *Landlord's Evidence*

On October 26, 2011 the tenant emailed the landlord to inform them that she was going to break the lease one month early and move out by the end of November 2011. The tenant was aware that the landlord was travelling out of the country on October 26, 2011. The landlord emailed the tenant back and informed her that the landlord was not accepting the tenant's notice to end the lease early. The landlord made three attempts

to re-rent the rental unit, all by word of mouth. The landlord was not able to re-rent the unit for December 2011. The tenant did not clean the carpets or do other cleaning when she vacated the rental unit. The landlord carried out three hours of cleaning but has not yet cleaned the carpets.

The landlord has claimed \$750 for December 2011 rent; \$150 estimated cost for carpet cleaning; and \$90 for three hours of cleaning, at \$30 per hour. The landlord submitted photographs of the areas of the rental unit that required cleaning.

### *Tenant's Evidence*

On October 26, 2011 the tenant gave the landlord notice, first by email and then in writing, that she was going to move out by the end of November 2011. The tenant submitted a copy of her written notice to vacate, which is dated October 26, 2011 and includes the tenant's forwarding address. The tenant stated that she served the landlord her written notice along with her November rent on October 26, 2011.

The tenant completely moved out of the rental unit on November 30, 2011. The landlord did not apply to keep the security deposit until more than 15 days after the end of the tenancy.

### Analysis

#### *Landlord's Application*

When a tenant breaches a fixed-term tenancy, the tenant may be responsible for unpaid rent to the end of the fixed term. However, as soon as a landlord is aware of the tenant's intention to vacate, the landlord has a responsibility to mitigate their potential loss by taking reasonable steps to re-rent the unit as quickly as possible. I find in this case that the landlord did not take adequate steps, such as advertising, to attempt to re-rent the rental unit. The landlord is therefore not entitled to the amount claimed for December 2011 rent.

I accept the landlord's evidence regarding the unclean condition of the rental unit, and I find the amount claimed of \$90 for three hours of cleaning to be reasonable. I therefore grant the amount claimed for cleaning.

The landlord did not incur any actual costs for carpet cleaning, and I therefore find the landlord is not entitled to the amount claimed for carpet cleaning.

#### *Tenant's Application*

Section 38 of the Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit. In this case, the tenant provided her forwarding address in writing on October 26, 2011, and the tenancy ended on November 30, 2011. The landlord did not make their application to keep the security deposit until December 22, 2011. Therefore, the tenant is entitled to double recovery of her security deposit, in the amount of \$750.

### *Filing Fees*

As the landlord's claim was mostly unsuccessful, I find that they are not entitled to recovery of the filing fee for the cost of their application.

As the tenant's claim was successful, I find that she is entitled to recovery of her filing fee, in the amount of \$50.

### Conclusion

The landlord is entitled to \$90. The remainder of the landlord's application is dismissed.

The tenant is entitled to \$800.

I grant the tenant an order under section 67 for the balance due of \$710. 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: March 15, 2012.

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Residential Tenancy Branch