



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, MNSD, FF

### Introduction

This was the hearing of the landlord's application for a monetary order and an order to retain the security deposit. The hearing was conducted by conference call. The landlord and the tenant participated in the hearing.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award and an order to retain the tenant's security deposit?

### Background and Evidence

The rental unit is a house in Surrey. The tenant viewed the house in February and agreed to rent it commencing March 1, 2012. The house was occupied when the tenant viewed it. On or about February 20, 2012 the tenant agreed to rent the house at a monthly rent of \$1,400.00. She gave the landlord a \$700.00 security deposit and a cheque for the first month's rent.

The landlord testified that he arranged to have his former tenant move out early to accommodate the tenant who needed to move before March 1<sup>st</sup>. He painted all the rooms in the rental property except the kitchen and he shampooed all the carpets. The work was done by February 28<sup>th</sup>. He said that the tenant phoned him on February 29<sup>th</sup> and told him that she would not be moving in because there was a bad odour in the rental unit and bad air quality that she attributed to mould or mildew. The tenant stopped payment on the rent cheque and later asked the landlord to return her deposit. The landlord succeeded in re-renting the unit effective March 1<sup>st</sup>. He submitted statements from his former tenant, his current tenant and an acquaintance; all said that there was no unusual odour or problem with mould or mildew.

The tenant testified that she noticed a strong odour when she viewed the property when it was occupied by the former tenant. She said that she attributed the odour to the clutter of furniture and belongings and cigarette smoke.

The tenant testified that when she attended at the house to start moving in she was "hit by a strong mildew odour". She opened the windows. She noted that the carpet was still damp. She testified that she got a headache after being in the house for 10 minutes

and when her three year old son complained that his head hurt she knew they could not live there. She attributed the headaches to mould spores.

The tenant also complained that there was some offensive graffiti in the carport area.

In her written submission the tenant contended that the landlord did not suffer \$1,400.00 in losses. She said he was not trying to rent in the beginning of March and she agreed to rent the house on February 19<sup>th</sup> and gave notice on March 1<sup>st</sup> so the landlord was delayed in trying to rent the house by 10 days only.

### Analysis and conclusion

I do not find that the tenant had grounds to end this tenancy without providing the landlord with proper notice. The tenant claimed that there was a serious air quality problem in the rental unit, but her testimony is not supported by any objective evidence and it is contradicted by statements from the former and current tenants as well as an acquaintance of the landlord who inspected the unit and provided a statement. The fact that the tenant asserted that an easily rectified graffiti image also constituted a reason for ending the tenancy suggests that the tenant had second thoughts about her hasty decision to rent the unit and that she was grasping for reasons to avoid the agreement that she made. I find that the tenant has not established that she had grounds to end the tenancy without notice.

The landlord re-rented the unit effective April 1<sup>st</sup>. Ordinarily he would be entitled to an award of one month's rent; he has limited his claim to the deposit that he holds plus the filing fee for his application. I find that the landlord is entitled to compensation in the amount of \$700.00 as claimed. He is entitled to recover the \$50.00 filing fee for his application for a total award of \$750.00. I order that he retain the \$700.00 deposit in partial satisfaction of the award and I grant the landlord a monetary order under section 67 in the amount of \$50.00. This order may be registered 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: May 16, 2012.

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Residential Tenancy Branch