



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order in the amount of \$1,348.94 to retain the security deposit and to cover the cost of lost rent as the Tenants provided late notice to end the tenancy.

The Tenants appeared at the teleconference hearing and gave affirmed testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me. No one appeared on behalf of the Landlord despite this hearing being convened to hear the matters pertaining to the Landlord's application for dispute resolution.

### Issue(s) to be Decided

1. Have the Landlord's met the burden of proof to obtain a Monetary Order pursuant to sections 7, 67, and 72 of the *Residential Tenancy Act*?

### Background and Evidence

The Tenants affirmed that this tenancy was for a fixed term that began on December 1, 2010 and switched to a month to month tenancy after November 30, 2011. They attended the move-in inspection on November 30, 2010 and the move out inspection on February 29, 2012 at which time they agree to allow the Landlord to deduct \$120.00 for carpet cleaning and \$75.00 for the front door key from their \$564.00 deposit. They were of the opinion that the remainder of their deposit \$369.00 would be returned to them.

The Tenants acknowledge receiving a cheque yesterday from the Landlord for \$351.00. They advised they had also paid a pet deposit of \$500.00 that was transferred from unit #508 from the Landlord's building down the street, to this tenancy when they moved in, and questioned how they get that returned.

### Analysis

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 Landlord, the telephone line remained open while the phone system was monitored for

ten minutes and no one on behalf of the applicant Landlord called into the hearing during this time.

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the hearing** The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, **in the absence of any evidence or submissions from the applicant I order the application dismissed without liberty to reapply.**

The Tenants confirmed the Landlord returned only \$351.00 of her security deposit and still owes **\$18.00** (\$564.00 - \$120.00 - \$75.00 - \$351.00 payment). Having dismissed the Landlord's application the Landlord is not entitled to retain the Tenant's security deposit, or portion thereof. Therefore I hereby order the Landlord to return the balance of the Tenant's security deposit of \$18.00 plus interest of \$0.00.

As discussed in the hearing the Tenants are at liberty to make application for the return of their pet deposit.

#### Conclusion

I HEREBY DISMISS the Landlord's application, without leave to reapply.

A copy of the Tenant's decision will be accompanied by a Monetary Order for **\$18.00**. This Order is legally binding and must be served upon the Landlord.

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 11, 2012.

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Residential Tenancy Branch