



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

For the Tenant: MNDC, MNSD

For the Landlord: MNDC, MNR, MNSD, MND, FF

### Introduction

This hearing dealt with the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The tenant applied for a monetary order for money owed or compensation under the Act or tenancy agreement and a monetary order for a return of his security deposit.

The landlord applied for a monetary order for money owed or compensation for damage or loss, for unpaid rent, and damage to the rental unit, authority to retain the tenant's security deposit and to recover the filing fee for the Application.

The hearing process was explained to the parties. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

### Issue(s) to be Decided

1. Is the tenant entitled to a monetary order and an order returning his security deposit?
2. Is the landlord entitled to a monetary order for money owed or compensation for damage or loss, for unpaid rent, and damage to the rental unit authority to retain the tenant's security deposit, and to recover the filing fee for the Application?
3. Does the *Residential Tenancy Act* apply to this dispute and do I have jurisdiction to resolve this dispute?

### Background and Evidence

With the exception of a letter from a client service worker on behalf of the tenant, neither party submitted evidence. The letter writer informed the reader that the tenant had been staying at the homeless shelter since February 27, 2012.

### **Tenant's Application and Testimony:**

The tenant met with one of the tenants of the landlord at the residential property, asking if a bedroom was available. The other tenant responded in the affirmative and both parties visited the available room.

Thereafter the tenant signed an "intent to rent" form at the government assistance office, and slept that night on the floor at the residential property.

The next day, the government assistance office decided to give him rent and security deposit funds, which was sent to the landlord.

Thereafter the other tenant "kicked out" the tenant and the tenant never stayed another night at the rental unit or residential property, although the landlord has collected rent on his behalf.

The tenant has never met the landlords.

The tenant's monetary claim is \$1117.45, which includes recovery of rent for March 2012, for \$375.00, recovery of rent for April 2012 for \$475.65 and \$266.75 for recovery of the security deposit.

### **Landlord's Application and Testimony**

The rental unit had six tenants, when only three were to be there. The tenants damaged the rental unit, which included cigarette smoke damage.

The tenant never gave notice of vacating and the landlord never received rent from the tenant.

The landlord's monetary claim is \$850.00. When questioned as to the basis of the amount, the landlord responded, "I think that's fair."

### **Analysis**

In order for the applicants (both landlord and tenant in this case) to succeed with their applications, the applicants must show that the *Residential Tenancy Act* applies. In order to find the Act applies, I must be satisfied that the parties entered into a tenancy agreement and that the parties had a landlord and tenant relationship.

The *Act* defines a tenancy agreement as "an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit."

I accept the evidence of the tenant/applicant that another tenant of the landlord was responsible for allowing the tenant to believe there would be a tenancy in one of the

rooms. Neither party presented evidence that a tenancy agreement ever existed or was contemplated between the applicants.

Therefore I find that the tenant/applicant and the landlord/applicant had no legal relationship with each other. A further indication of a lack of a tenancy arrangement was due to the fact the parties have never met.

In light of the above, I decline to find jurisdiction to resolve this dispute. The parties are at liberty to seek the appropriate legal remedy to this dispute.

### Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined jurisdiction.

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: June 25, 2012.

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Residential Tenancy Branch