



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD MNDC O FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement, for the return of his security deposit, for other reasons, and to recover the cost of the filing fee from the Landlord for this application.

At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

### Issue(s) to be Decided

1. Should the Tenant be granted a Monetary Order?

### Background and Evidence

At the outset of the hearing the Landlord advised that she received only a copy of the Notice of Dispute Resolution Hearing. She confirmed that she did not receive a copy of the Tenant's application for dispute resolution and she did not receive any evidence from the Tenant.

The Tenant affirmed that he did not send copies of his evidence to the Landlord however the Landlord was provided a copy of the mold report prior to him filing his application. The Tenant did not know if the Landlord was served with a copy of his application form.

The parties agreed that they had entered into a one year fixed term tenancy that began on April 5, 2012. Rent was payable on the first of each month in the amount of \$1,200.00 and on April 5, 2012 the Tenant paid \$600.00 as the security deposit. The Tenant vacated the property at the end of July 2012 after being served with a 10 Day Notice to end tenancy for unpaid rent. A move in condition inspection was completed on April 5, 2012 and the move out condition inspection was completed July 31, 2012.

The Tenant submitted that he provided his forwarding address to the Landlord by e-mail on July 31, 2012 and he is seeking the return of his security deposit. He is also seeking \$1,276.80 to cover the cost of a mold report he had completed because his baby was sick due to the mold in the rental unit. The Tenant confirmed that he did not seek a remedy through dispute resolution to deal with the mold issue and he did not have an agreement with the Landlord that they would pay for the mold inspection.

The Landlord confirmed receiving the Tenant's forwarding address via e-mail on July 31, 2012. She stated that she was not prepared to discuss the mold report or any claim relating to that report as she was not previously informed of the reasons for this dispute prior to attending the hearing.

### Analysis

The Tenant confirmed that he did not serve the Landlord with copies of his evidence which is a contravention of section 3.1 of the *Residential Tenancy Branch Rules of Procedure*. Considering evidence that has not been served on the other party would create prejudice and constitute a breach of the principles of natural justice. Therefore, as the Landlord has not received copies of the Tenant's evidence I find that the Tenant's evidence cannot be considered in my decision. I did however consider the Tenant's testimony.

Section 59(3) of the Act stipulates that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it. The purpose of serving documents on the other party is to ensure the other party is aware of the claim being brought against them so they have an opportunity to defend themselves.

In this case the Landlord was not served a copy of the Tenant's application and they were not served copies of the Tenant's evidence. Therefore, I refuse to accept the Tenant's application.

Conclusion

I hereby refuse to accept the Tenant's application for monetary compensation, pursuant to Section 59(5) of the Act.

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: August 14, 2012.

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Residential Tenancy Branch