



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

**MND, MNSD, MNDC, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for damage to the rental unit, damage or loss under the Act, to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and evidence was reviewed.

Each party was affirmed.

### **Preliminary Matters**

On September 11, 2012 the landlord submitted the application claiming \$25,000.00 compensation.

The tenant confirmed receipt of the Notice of hearing package on approximately September 15, 2012. The tenant said she received the mail via regular Canada Post; the landlord said the mail was registered and accepted by an individual who was unknown to her. The tenant said no one else would be accepting registered mail on her behalf.

The landlord submitted all evidence on a CD, given to the Residential Tenancy Branch on November 13, 2012; the date the CD was sent to the tenant via registered mail. The evidence also contained a 1 typed page. The landlord said that the registered mail was accepted by the same person who signed, accepting the Notice of Hearing package.

The tenant testified that she did not receive the CD and that she had not seen any other evidence.

The landlord confirmed that they had not contacted the tenant to ensure that she had access to the digital evidence, as required by section 11.8 of the Rules of Procedure, which provides, in part:

*The format of digital evidence must be accessible to all parties. Before the hearing, the party submitting the digital evidence must determine that the other party and the Residential Tenancy Branch have playback equipment or are otherwise able to gain access to the evidence.*

The landlord testified that the application had been submitted prior to the time that all invoices could be obtained; no detailed calculation of the claim made was served with the application. The process of amending an application was explained to both parties.

Rather than proceed with the hearing, based on oral testimony only, the landlord elected to withdraw the application.

The landlord expressed concern in relation to the time requirements for making a claim against the deposit. I explained that any decision on the time requirement would be made at a future hearing and that I would not make any determination in relation to the claim made against the security deposit as the application was being withdrawn.

I note that the Rules of Procedure indicate that digital evidence submissions should include only:

*photographs, audio recordings, video recordings or other material provided in an electronic form that cannot be readily reproduced on paper.*

The parties were referred to the Residential Tenancy Branch web site and informed of the Information Officer service; should they have any questions.

### Conclusion

The landlord withdrew the application and has leave to reapply, in accordance with the Act.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 27, 2012.

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Residential Tenancy Branch