



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC

### Introduction

This hearing dealt with an application by the tenant seeking a monetary order as compensation for loss or damage under the Act, the regulations or the tenancy agreement. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the tenant entitled to a monetary order?

### Background and Evidence

The tenancy began on or about July 1, 2009 and ended on July 23, 2012. Rent in the amount of \$620.00 is payable in advance on the first day of each month. The tenant's rent was subsidized and paid by the government social assistance program.

The tenant gave the following testimony; gave written notice to the landlord that he was moving out at the end of July 2012, the landlord received his August rent cheque in late July by social assistance and still "cashed" it, and wants the August rent money back as he vacated the unit on July 23, 2012.

The landlord gave the following testimony; never received notice from the tenant; written or otherwise, was not aware that the tenant vacated until sometime in August 2012.

### Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the tenant must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The landlord was adamant that she didn't receive notice from the tenant in either verbal or written form. I asked the tenant on three separate occasions as to when he gave the written notice to the landlord. Each time the tenant responded; the answer was different. The tenant was not only contradictory during the hearing but was vague and would offer irrelevant information about other matters that were not before me.

A great deal of time was spent explaining the importance of documentation to help support his claim. The tenant responded that he understood but never bothered to make copies and "can't quite remember when I gave the notice". With the lack of documentary evidence to support his position in addition to the contradictory testimony the tenant has not been successful in his application.

### Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

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: January 10, 2013.

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Residential Tenancy Branch

