



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD and MNDC

### Introduction

This hearing was convened on the tenant's application of October 17, 2012 seeking a Monetary Order for return of a portion of the security deposit and rent rebate offered to her and her co-occupant if they left the tenancy earlier than the end date set by a Notice to End Tenancy for cause.

At the commencement of the hearing, the tenant concurred that she may have erred in identifying the security deposit in her claim as it appeared to have been returned to her co-occupant with deductions approved by him.

### Issue(s) to be Decided

Was this a co-tenancy? Is the tenant entitled to a Monetary Order for the full amount of the incentive offered by the landlords to leave the tenancy earlier than the end date set by the Notice to End Tenancy for cause?

### Background and Evidence

This tenancy began on March 1, 2012. Rent was \$1,250 per month and the landlords held a security deposit of \$625 paid at the beginning of the tenancy.

The tenant's claim turns to some degree on whether she was the sole tenant or whether this was a co-tenancy.

The tenant stated that only she signed the rental agreement – which was not submitted into evidence – and was, therefore, a sole tenant or tenant in common.

The landlords stated that the applicant tenant and the male tenant had moved in together in a domestic relationship and that the male tenant had paid the security deposit. The agreement had been treated as a co-tenancy throughout, including the naming of both parties on the Notice to End Tenancy.

During the hearing, the landlords gave evidence that they had received numerous complaints from neighbours regarding late night noise and unusually frequent callers to the rental unit throughout the tenancy. They said the tenants had at times advised them of their domestic disharmony.

The landlords gave evidence that the rental unit was the scene of an incident on June 15, 2012 with police involvement in which it was alleged that two juveniles threatened the male resident with a knife during an apparent drug transaction, a matter reported in local news media.

Consequently, the landlords issued the tenants with a Notice to End Tenancy for cause dated June 20, 2012 with an end date of July 31, 2012. The parties concurred that the landlords offered to return a per diem of rent to from the date they vacated to July 31, 2012 if they vacated earlier to facilitate preparing the rental unit for new tenants or August 2012. The tenants did vacate on July 17, 2012.

The landlords stated that the offer of return of rent, made orally, clear that it would be contingent on the rental unit being left in good condition. The tenant stated no such conditions were placed on the return of rent.

The landlords gave evidence that before the tenancy began, they had spent \$35,000 and four months renovating the rental unit and it was pristine at the beginning of the tenancy. They were shocked at the condition of the unit when they regained possession and found considerable damage caused by the applicant's cat, an odour of cat urine that professional carpet cleaning has failed to erase and a large hole in the wall that the applicant acknowledged had been her doing.

The landlords said they had tried to contact both parties to settle matters when the tenancy ended, but the applicant would not return their calls and they eventually met with her former partner.

After deducting what they believed was his share of the damages from his rent rebate, they gave him a cheque for \$651.60, security deposit included, with his full agreement. They also gave him a cheque for \$20 for the applicant after having deducted the cost of remediating damage she had acknowledged and provided a full accounting to both. He passed the \$20 cheque to the applicant.

### Analysis

By virtue of the male tenant having paid the security deposit and having been part of the tenancy since its inception, I find that this was a co-tenancy. Among the features of a co-tenancy; any one tenant may act on behalf of all co-tenants in representing the tenancy and all co-tenants are jointly and severally liable for any obligations to the landlord.

Therefore, I find it was appropriate to return the security in full or part to the male tenant and to consider his agreement to bind both co-tenants. I believe the landlords erred in issuing a separate cheque for the applicant, but I find it was done in good faith in an effort to assist the tenants.

Ultimately, the landlords were entitled to accept the agreement of the male tenant as representative of the co-tenancy. Allocation of the credits and liabilities between the tenants is a matter to be determined by the tenants and is not the responsibility of the landlords. In addition, the *Act* does not have jurisdiction to adjudicate disputes between tenants.

Therefore, the application is dismissed without leave to reapply as I find that the tenant has brought a claim for which there is no remedy under the *Act*.

Conclusion

The application is dismissed 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 17, 2013

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Residential Tenancy Branch

