



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, FF

### Introduction

This matter dealt with an application by the Landlord for compensation for damage to the unit, site or property and to recover the filing fee for this proceeding.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the “hearing package”) by registered mail on June 20, 2013. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with all parties present.

At the start of the Hearing the Landlord said she meant to apply to retain all or part to the Tenants’ security deposit but the box on the application for retaining the security deposit was not checked off. I accept the Landlord’s amendment to include the retaining part or all the Tenants’ security deposit.

### Issues(s) to be Decided

1. Is there damage to the unit, site or property and if so how much?
2. Is the Landlord entitled to compensation and if so how much?

### Background and Evidence

This tenancy started on August 1, 2012 as a 1 year fixed term tenancy with an expiry date of July 31, 2013. Rent was \$1,800.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$900.00 in July, 2012.

The Landlord said the Tenants moved out on May 31, 2013 which was 2 months before the end of the fixed term tenancy. The Landlord continued to say she found new tenants who moved into the rental unit on June 1, 2013 so the Landlord is not claiming any lost rent. The Landlord said the unit was unclean and damaged when the Tenants moved out and the Landlord is requesting to retain all or part of the Tenants’ security

deposit to cover the costs or the damage and cleaning. The Landlord's application indicates a monetary claim of \$900.00 plus the \$50.00 for the filing fee.

The Tenant said no move in or move out condition inspection reports were completed and they left the rental unit in a very clean condition. The Tenants said they had a number of friends and family help them clean the unit and move them out of the unit. The Landlord agreed no move in or move out condition inspection reports were completed.

The Tenants continued to say they gave the Landlord their forwarding address in writing in the first week of June, 2013 and the Landlord has refused to return their security deposit of \$900.00. The Tenants said they have not made an application for the security deposit, but will do so if the Landlord does not return the deposit within 15 days of this hearing.

### Analysis

Section 23 and 35 of the Act say that a landlord and tenant must do condition inspections to establish the condition of the rental unit at the start and the end of the tenancy. If this is not done and there is no other acceptable evidence of the condition of the rental unit at the start and the end of a tenancy then the applicant cannot establish the amount of damage or if any damage was done to the rental unit.

Both parties agree no condition reports were done for this tenancy. Consequently the Landlord cannot establish proof that the Tenant damaged the rental unit or left it in a condition that was not similar to the start of the tenancy. As a result of lack of proof to establish the condition of the rental unit at the start or the end of the tenancy, I dismiss the Landlord's application for damages to the unit, site or property and for the Landlord to retain the Tenants' security deposit without leave to reapply.

As well, as the Landlord was not successful in this matter I dismiss her application to recover the filing fee of \$50.00 from the Tenant.

Conclusion

The Landlord's 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: September 30, 2013

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Residential Tenancy Branch

