



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC

### Introduction

This was a hearing with respect to the tenant's application for a monetary order. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing

### Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

### Background and Evidence

The tenant testified that he responded to an internet advertisement and met the landlord at the rental property on or about April 4<sup>th</sup>. The tenant said that he paid the landlord the sum of \$850.00 on April 5. The tenant said that the payment was \$400.00 as payment of a half month's rent for the period from April 15<sup>th</sup> to April 30<sup>th</sup> plus a \$400.00 security deposit and a \$50.00 garage door opener deposit. The tenant said that he did not sign any papers and was not given and said that he paid the landlord under duress to secure the apartment.

The tenant testified that he requested cancellation of the rental agreement within 48 hours of his payment. He said that he had several reasons for wanting to cancel the agreement. He said after making some inquiries and observing the rental property he felt his safety would be in jeopardy if he lived in the rental unit. The tenant claimed that the unit was rented to someone else beginning on April 15<sup>th</sup>. The landlord denied that the unit was re-rented. He said that it was not re-rented for any part of April. The tenant did not provide any other evidence beyond his statement, to establish that the unit was re-rented in April.

The tenant made telephone calls to the landlord requesting the return of his payment and he arranged to meet the landlord at his office. He testified that during the meeting

with the landlord he reached an agreement whereby the landlord would return \$425.00 of the \$850.00 that he had paid. The tenant acknowledged that the landlord paid him \$425.00 by cheque and that he negotiated the cheque.

At the hearing the tenant acknowledged that the landlord gave him the payment and that it was clear from the discussions that the payment was made by the landlord as a final payment intended to be made in satisfaction of any and all obligations to the tenant. The tenant said he took the payment without expressing any disagreement: "because I needed the money."

### Analysis

It was clear upon the testimony of both parties that the landlord made the \$425.000 payment to the tenant because the tenant agreed to accept it in full and final satisfaction of any and all obligations and claims that the tenant might have for the refund of the payment he made to the landlord. Had the tenant stated that it was his intention to take the offered payment and to commence an application to claim additional amounts, exceeding the original amount paid, the payment would never have been made. It is noteworthy that the tenant waited for two months after accepting the payment before he commenced his application to claim additional amounts from the landlord.

### Conclusion

I find that the landlord offered a payment of \$425.00 in full and final satisfaction of the tenant's claims arising out of the rental agreement and I find that the tenant accepted it on the same basis. Having accepted the payment in satisfaction of a disputed claim, I find that the tenant is barred from bringing a proceeding to claim additional amounts from the landlord. The tenant's application is therefore 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: October 10, 2013

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Residential Tenancy Branch

