



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD

### Introduction

This hearing dealt with an application by the tenant seeking a monetary order. 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 as claimed?

### Background and Evidence

The tenant gave the following testimony:

The tenant stated that the tenancy was to start on March 15, 2013. The tenant stated that he had posted a \$200.00 security deposit and \$375.00 towards the \$425.00 monthly rent leaving a shortfall of \$50.00. The tenant stated that on March 12, 2013 the landlords' agent told him that he was not going to get the keys to the unit and no longer wants him to move in. The tenants advocate stated that they are aware that the Act would allow the landlords to retain the security deposit but seek the return of the \$375.00 as the tenant was not afforded an opportunity to pay the shortfall and move in.

The landlord and his caretaker gave the following testimony:

The tenancy began on or about March 1, 2013. Rent in the amount of \$425.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$200.00. The caretaker stated that he has known the tenant for 5 years and gave him the keys to the

suite on March 1, 2013 without paying any money. The caretaker stated that he thought the tenant was “a nice guy and trusted him”. The caretaker stated that he received \$575.00 on March 12, 2013 and that he would “never refuse someone the chance to move in”. The landlord stated that on March 20, 2013 or the day after the tenant verbally told him that he would be moving out as he had no money for groceries. The landlord stated that the tenant said “keep the money”. The landlord stated the tenant did not give written notice and he was unable to re-rent the unit until May 1, 2013.

### 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 tenants advocate referred to a second receipt that would provide clarity however it was not submitted for this hearing. In addition the tenants advocate stated the tenancy was to begin on March 15, 2013 yet the receipt she referred to was from March 20, 2013 to April 20, 2013. I found the information ambiguous and not helpful.

Based on the testimony of the parties and on the balance of probabilities I accept the version of the events as purported by the landlord and his caretaker. They were both clear and concise throughout the hearing. I accept the tenancy began March 1, 2013 and that the tenant vacated the unit without proper notice; accordingly I dismiss the tenant’s application in its entirety without leave to reapply and due to that fact the landlord was unable to re-rent until May 1, 2013.

### Conclusion

The tenants’ 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: November 28, 2013

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Residential Tenancy Branch

