



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This matter dealt with an application by the Tenants for the return of the security deposit and for other considerations.

The Tenants said they served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on August 9, 2013. Based on the evidence of the Tenants, I find that the Landlord was served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenants in attendance.

### Issues(s) to be Decided

1. Are the Tenants entitled to the return of the security deposit?
2. What other considerations are there?

### Background and Evidence

This tenancy started on November 15, 2012 as a fixed term tenancy for 12 months. Rent was \$1,000.00 per month payable in advance of the 31<sup>st</sup> day of each month. The Tenants paid a security deposit of \$500.00 on November 15, 2012.

The Tenants said they gave the Landlord notice at the end of May, 2013 that they were moving out of the rental unit because of a rat problem in the unit. The Tenants said they cleaned the unit and moved out on June 13, 2013. The Tenants said that after they moved out they decided to make an application for the return of their security deposit of \$500.00 and for utilities of \$400.00 that they paid but were not included in the tenancy agreement. The Tenant said their tenancy agreement includes all utilities and in the Landlord’s tenancy agreement there is a charge of \$50.00 per month for heat. The Tenants said they paid another tenant (the Pizza Shop owner) \$80.00 each month for five months. The Tenants said that because utilities were included in the original tenancy agreement they should be reimbursed the \$400.00 that they paid to the Pizza Shop tenant. The Tenants continued to say the Landlord has not returned their security deposit of \$500.00 either.

The Landlord said the original tenancy agreement was changed to include \$50.00 per month for hydro which was shared with the Pizza Shop tenant who pays the hydro bill. The amount the Tenants were to pay was \$50.00 not \$80.00 and the Landlord provided a letter from the Pizza Shop owner that confirms this. As well the Landlord said she provided a signed agreement to end tenancy that states the Tenants agree to waive their security deposit for unpaid rent and the Tenants agree to pay the unpaid utility charges up to June 14, 2013. The Landlord said the Tenants application is not valid as the agreement to end the tenancy deals with both the security issue and the utility issue. The Landlord requested that the Tenants' application be dismissed based on the letter of agreement to end the tenancy dated June 13, 2013 and signed by the Tenants and the Landlord.

The Tenants agreed they signed this agreement, but the Tenants said they did not understand the agreement as they have learning disabilities and the Landlord forced them to sign it. The Tenants provided two Witnesses to support this claim. The Witnesses are the female Tenant's parents and both Witnesses said they saw the Tenants sign the agreement and the Witnesses said the Landlord covered the agreement and did not explain it. The male witness was questioned if he did anything to help the Tenants understand what they were signing and the male Witness said he did not interfere in the Tenants business. The female Witness said they helped the Tenants clean the house and she found rat feces in the unit. As well the female Witness said she saw the Tenants sign the agreement at the end of the tenancy.

The Tenants said in closing that they have disabilities and therefore should not be held accountable for signing the agreement waiving their security deposit and saying they would pay the utilities. The Tenants requested the return of the security deposit of \$500.00 and utilities that they paid in the amount of \$400.00.

The Landlord said in closing that she has a signed agreement by the Tenants waiving the security deposit and agreeing to pay the utilities therefore the Tenants application should be dismissed.

### Analysis

Section 44 c of the Act says a tenancy may end by written agreement by the landlord and tenant. The Landlord has submitted a letter dated June 13, 2013 that is signed by both the Tenants and the Landlord and it states that the Tenants agree to waive their security deposit for unpaid rent and the Tenants agree to pay the utilities up to June 14, 2013. I understand the Tenants testimony that they did not know what they were signing as they have learning disabilities which makes it difficult for them to understand written information, but they did have parents in the room at the time the agreement was

signed so they could have requested help in understanding the agreement and what they were signing. Consequently I accept the letter dated June 13, 2013 as an agreement to end tenancy and the terms of the agreement is that the Tenants forfeited their security deposit for unpaid rent and the Tenants agreed to pay the utility costs up to June 14, 2013. Therefore the Tenants have not established grounds to prove their claim for the return of their security deposit or for the reimbursement of utility charges. I dismiss the Tenants' application without leave to reapply.

### Conclusion

The Tenants' 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: November 05, 2013

---

Residential Tenancy Branch

