



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION ON REQUEST FOR CLARIFICATION**

Dispute Codes: FF MND MNDC MNSD

The applicant has requested a clarification to the Residential Tenancy Branch decision dated October 24, 2013.

Section 78 of *Residential Tenancy Act* enables the Residential Tenancy Branch to clarify a decision or order.

The applicant requests "We are unclear as to why the arbitrator stated that we confirmed in direct testimony that the lease would continue on a month to month basis when we directly contradicted this, pointing out that the month to month clause had been blacked out by the landlord. Though they are mentioned elsewhere, it is unclear why Section 23 part 4 and 5 and Section 24 part 2 of the Rental Tenancy Act were not addressed in the written decision with regards to the landlords responsibility to return out deposit on time. These sections directly disallow the landlord's retention of the damage deposit and were the crux of our argument, but were not mentioned in the decision. The law indicates that she is allowed to claim a monetary order (mnd), but extinguished her right to hold the deposit (mnsd). It is also unclear as to why the landlord was allowed to retain the pet deposit when she was not claiming against it at all and therefore should have returned it on time. We were wondering why the landlord's false testimony was not included as it affected her credibility in a case where all of her claims were based on her credibility."

I find the evidence does not support the request. The original decision and order stand(s). The finding made was based upon the notes made by the Arbitrator that both parties confirmed in their direct testimony that the signed tenancy agreement showed that the fixed term tenancy would continue on a month to month basis. The Applicant also seeks clarification on why Sections 23 and 24 do not apply in disallowing the Landlord's retention of the security deposit. Section 72 (2) of the Residential Tenancy Act states,

**Director's orders: fees and monetary orders**

72 (2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

The Tenant's claim regarding the allegation that the Landlord provided false testimony affected their credibility has no relevance to the claim made. The Landlord's claim was established based upon the Tenant's direct testimony.

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 22, 2013

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Residential Tenancy Branch