



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC FF

### Introduction

This hearing dealt with the landlord's application for monetary compensation.

The hearing first convened on November 22, 2013. On that date, both landlords and one of the two tenants called in to the teleconference hearing. The tenant, AP, stated that he was never served with the landlord's application or evidence, and he only found out about the hearing two days earlier. I determined that it was appropriate to adjourn the hearing and allow the landlord to re-serve AP.

The hearing reconvened on January 24, 2014. At that time, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on October 15, 2012, with monthly rent in the amount of \$900 due on the first day of the month. In July 2013 the landlord served the tenants with a notice to end tenancy for unpaid rent, and then applied through the direct request process for an order of possession. The landlord received an order of possession issued July 25, 2013. The order was effective two days after service on the tenants. The landlord served the tenants with the order of possession but the tenants did not vacate, and on

August 2, 2013 a court bailiff served the tenants with a writ of possession and removed the tenants.

### *Landlord's Claim*

The landlord claimed \$2047.52 in court fees and bailiff fees to have the order of possession enforced. The landlord stated that when they served the tenants with the order of possession, the tenants would not comply, and stated that they would not move out until October. The landlord then registered the order of possession and obtained a writ of possession, and hired a bailiff to remove the tenants on August 2, 2013. On that date, the landlord and one tenant, RP, signed a written agreement regarding the security deposit. The agreement indicates as follows:

#### RE: Return of damage deposit

Original damage deposit (Oct./2012): \$450

Amount of returned damage deposit (Aug./2013): \$300

The difference of \$150 represents \$50 in outstanding rent for July/2013, and sundry costs related to cleaning the unit after the unit is vacated.

The parties below agree this settles the issue of the damage deposit and that no further action will be pursued by either party, regarding the damage deposit.

The landlord also submitted invoices for the bailiff and for the court fee to obtain the writ of possession.

### *Tenants' Response*

The tenants stated that they had a conversation with the landlord on August 1, 2013, and they thought that the matter was done and dealt with, and that the landlord understood that the tenants were actively looking for a place for September 1<sup>st</sup>. The tenants submitted that the written agreement regarding the damage deposit was a "release" of all further claims. The tenants did not submit any documentary evidence to support their position.

### Analysis

I find that the landlord is entitled to their monetary claim in its entirety. I accept the evidence of the landlord that the tenants were not complying with the order of possession, and it was therefore necessary for the landlord to incur the costs of obtaining a writ of possession and hiring a bailiff to evict the tenants. The tenants did not have sufficient evidence to establish that they had an agreement with the landlord, verbal or otherwise, that the tenants could remain in the rental unit until September 1, 2013. I find that the written agreement regarding the security deposit is simply that, an agreement regarding the disposition of the deposit. The agreement is not a “release” that prevents the landlord from making a further monetary claim.

As the landlord’s application was successful, I find they are entitled to recovery of the \$50 filing fee for the cost of their application.

### Conclusion

The landlord’s monetary claim is successful.

I grant the landlord an order under section 67 for the balance due of \$2097.52. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 18, 2014

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Residential Tenancy Branch

