



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW HEARING DECISION**

### Dispute Codes

MND MNSD MNDC FF

### Introduction

This hearing dealt with monetary applications by the landlord and the tenant. The hearing originally convened over two dates in January and February 2014, and on March 11, 2014 I issued my decision pursuant to the original hearing. The landlord applied for and was granted a review hearing, which was assigned to me. The review hearing convened on June 3, 2014. The landlord and the tenant both participated in the teleconference hearing.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?  
Is the tenant entitled to recovery of the security deposit?

### Background and Evidence

The tenancy began on September 2, 2013. In the review hearing the parties agreed that the tenant paid rent of \$500 for September 2013 and a security deposit of \$250. The landlord did not conduct a move-in inspection or complete a condition inspection with the tenant. The landlord and the tenant did not sign a written tenancy agreement. The tenant vacated the rental unit on September 28, 2013.

The tenant gave the landlord her forwarding address in writing on September 30, 2013. The landlord applied to keep the deposit on October 10, 2013.

The landlord stated that she re-rented the unit for \$480 per month, so the tenant should be responsible for the \$20 difference in revenue for 11 months. The landlord stated that the tenant agreed to a one-year fixed term tenancy, but she did not sign and return the agreement to the landlord. The landlord also stated that when the new tenant moved in to the rental unit, a desk that was included with the unit collapsed. The landlord has claimed \$250 for the cost of a replacement desk.

The tenant stated that she did not sign the lease because on September 5, 2013 the landlord entered the tenant's unit without notice, said that she always did that, and informed the tenant

that she would be sharing the kitchen with three other tenants. The landlord then told the tenant to move if she didn't like it, and the tenant replied "okay." The tenant's position was that the landlord was responsible for the lease, not the tenant. The tenant stated that the desk in the unit was in the same condition when she moved out of the unit as when she moved into the unit.

### Analysis

Upon consideration of the evidence, and on a balance of probabilities, I find as follows.

The landlord's claim cannot succeed. The landlord and the tenant did not sign a fixed-term tenancy agreement, and therefore the tenant cannot be held responsible for the decrease in rent for what might have been the balance of a fixed term.

The landlord did not conduct a move-in inspection and complete a condition inspection report, so she does not have evidence to establish the condition of the desk at the outset of the tenancy.

The landlord applied in time to keep the security deposit, and therefore the security deposit is not doubled. The tenant is entitled to the base amount of the security deposit, \$250. As the tenant's application was successful, she is entitled to recovery of the \$50 filing fee for the cost of her application.

### Conclusion

I set aside my decision and order dated March 11, 2014 and replace them with this decision and order.

The landlord's application is dismissed.

I grant the tenant an order under section 67 for the balance due of \$300. 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: June 4, 2014

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Residential Tenancy Branch

