



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlords' Application for Dispute Resolution a monetary order.

The hearing was conducted via teleconference and was attended by the tenant only. I note also that the landlords did not provide any evidence or explanation of their claim other than to say "\$50.00 for cleaning and \$800.00 for April/14".

Residential Tenancy Branch Rule of Procedure 11.8 stipulates that digital evidence may include photographs, audio recordings, video recordings or other material provided in an electronic form that cannot be readily reproduced on paper. The Rule also goes on to say that it must be accompanied by a written description and meet the time requirements for filing and service.

The tenant submitted 4 CD's and one USB stick into evidence. However, the tenant did not provide a written explanation of what was contained on any of his electronic storage devices. As such, I have not considered any of the tenant's evidence provided in electronic format.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is to a monetary order for unpaid rent; for cleaning; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenant testified that the tenancy began as a month to month tenancy beginning on January 1, 2014 for a monthly rent of \$800.00 due on the 1<sup>st</sup> of each month with a security deposit of \$400.00 paid. The tenant also testified the tenancy ended at the end of March 2014 and that he had vacated the rental unit a couple of days prior to the end of the month.

The tenant confirmed that he had provided the landlords with his forwarding address at the end of March 2014 and that the landlords did not complete a move out condition inspection at the end of the tenancy.

### Analysis

Section 35 of the *Act* stipulates that the landlord and tenant must inspect the condition of the rental unit before a new tenant begins to occupy the rental unit on or after the day the tenant ceases to occupy the rental unit or on another mutually agreed upon day. The Section goes on to say the landlord must offer the tenant at least 2 opportunities to complete the inspection.

As per the tenant's undisputed testimony I find the landlords have extinguished their right to claim against the deposit by failing to provide at least 2 opportunities to conduct a move out inspection.

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

In the absence of any evidence at all from the landlords or any explanation as to what their claim is and because of their failure to attend this hearing I find that the landlords' Application was an attempt by the landlords to avoid returning the tenant's security deposit and any associated penalties. I find the landlords' Application is frivolous and an abuse of the arbitration process.

Residential Tenancy Policy Guideline #12 stipulates that an arbitrator will order the return of double the amount of the security deposit if among other things, the landlord

has extinguished their right to claim for damage and if the claim is found to be frivolous or an abuse of the process.

As such, I find the tenant is entitled to return of double the amount of the deposit.

### Conclusion

Based on the above, I dismiss the landlords' Application in its entirety.

Also based on the above, I grant the tenant a monetary order in the amount of **\$800.00** comprised of double the amount of the security deposit.

This order must be served on the landlords. If the landlords fail to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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 23, 2014

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Residential Tenancy Branch

