



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      mnsd, mndc

### Introduction

The tenant applies for the return of the tenant's security deposit and rent, paid to the landlord .

The landlord did not attend the hearing. I accept that the landlord was properly served with notice of this application and this hearing, by way of registered mail.

### Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit and the advance of rent?

### Background and Evidence

The landlord and tenant entered into a tenancy agreement on November 12, 2014, for a tenancy to begin November 22, 2014. On November 12, 2014 the tenant paid the prorated rent for 8 days of November of \$267.00 and the security deposit of \$500.00. The landlord failed to provide vacated possession to the tenant on November 22, 2014 as required under the agreement, as there was a different occupant in the premises. Negotiations to amend the tenancy agreement did not result in a new or amended agreement, and the landlord then rented the premises to a different tenant. Although failing to provide possession as promised, the landlord has nevertheless retained the tenant's security deposit and the rent paid.

### Analysis

The landlord breached a material term of the tenancy agreement by failing to provide vacant possession on November 22, 2014. I find that the agreement was effectively rescinded, and the landlord must therefore return all monies paid to her by the tenant, which total \$767.00. (I note that the tenant waived any claim to a doubling of the deposit.) The tenant is also awarded recovery of the filing fee of \$50.00.

### Conclusion

A monetary order in the amount of \$817.00, payable by the landlord to the tenant is issued.

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: March 06, 2015

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Residential Tenancy Branch

