



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNDC, MNSD, FF

### Introduction

This is an application brought by the Landlord requesting a monetary order in the amount of \$1500.00, recovery of her \$100.00 filing fee, and requesting an order to retain the full security deposit towards the claim.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondent, and if so in what amount.

### Background and Evidence

Parties agree that a security deposit of \$500.00 was paid on September 30, 2015 and that the tenancy began on October 1, 2015 with a monthly rent of \$1000.00, due on the first of each month.

The parties also agree that the tenant vacated the rental unit on August 31, 2016.

The landlord testified that the tenant had given her notice, by text message, that she would vacate the rental unit on June 30, 2016, and she therefore made arrangements for her daughter to move into the rental unit.

The landlord further testified that, the tenant subsequently told her she would not move out of the rental unit on June 30, 2016, and therefore she gave the tenant a two month notice to end the tenancy on August 31, 2016, to have her daughter move-in.

The landlord further testified that the tenant failed to pay the August 2016 rent in the amount of \$1000.00 and therefore, since it was the tenant who had initially given the Notice to End Tenancy, she believes the tenant should be paying that outstanding rent.

The landlord further testified that the tenant left the rental unit in need of significant cleaning, and stated she has provided photo evidence that clearly shows the poor condition in which the rental unit was left. She further states that she had to pay \$150.00 to have the rental unit cleaned.

The landlord further testified that, at the end of the tenancy the tenant failed to return any of the keys to the rental unit, and instead threw them out into the yard, and as she was unable to find the keys, she had to have the lock replaced at a cost of \$47.02.

The landlord is therefore requesting a monetary order as follows:

August 2016 rent outstanding	\$1000.00
Cleaning	\$150.00
Deadbolt	\$47.02
Filing fee	\$100.00
Total	\$1297.02

The tenant testified that she never gave the landlord notice that she would end the tenancy, and in fact it was the landlord who gave her a two month Notice to End Tenancy.

The tenant further testified that, it was her understanding, that when the landlord gives a two month Notice to End Tenancy for landlord use, the tenant gets the equivalent of one month free rent, and therefore she did not pay rent for the month of August 2016.

The tenant further testified that she believes she left the rental unit completely clean and therefore fails to see why the landlord had to have any further cleaning done.

The tenant further testified that she returned all the keys to the landlord, and the landlords story about throwing keys into the yard has been entirely fabricated. She further stated that the landlord is attempting to get her to pay for a deadbolt that was broken when the landlord's daughter kicked the door.

The tenant is therefore requesting that the full claim be denied.

### Analysis

Although the landlord claims the tenant gave her written notice to end the tenancy, in a text message, the landlord has provided no copy of that written notice, nor has she provided sufficient evidence to support her claim that the tenant gave her notice to end the tenancy at the end of June 2016.

The landlord has admitted that she did give the tenant two months' notice to end the tenancy so that her daughter could move into the rental unit, and the tenant is correct, when a landlord gives a two month Notice to End Tenancy for landlord use, section 51 of the Residential Tenancy Act requires the landlord to pay the tenant the equivalent of one month's rent, and therefore the tenant was not required to pay rent for her final month of August 2016. The landlords claim for rent for the month of August 2016 is therefore denied.

It is my finding however that the landlord has shown that the tenant did not leave the rental unit reasonably clean. The landlord has provided photo evidence that clearly shows that cleaning was required in this rental unit. I therefore allow the landlords claim for \$150.00 for cleaning.

I deny the landlords claim for replacing the deadbolt however, because the landlord has not met the burden of proving that the tenant did not return all the keys. The burden of proving a claim lies with the applicant, and when it is just the applicant's word against that of the respondent, that burden of proof is not met. In this case it is just the landlord's word against that of the tenant, and therefore the landlord has not met the burden of proof.

Therefore the total amount of the landlords claim that I have allowed is \$150.00 and since that is only a very small portion of the landlords claim I will not allow the landlords request for recovery of the \$100.00 filing fee.

### Conclusion

I have allowed \$150.00 of the landlords claim, and therefore the landlord may retain \$150.00 of the tenant's \$500.00 security deposit and I have issued a monetary order for the landlord to return the remaining \$350.00 to the tenant.

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 13, 2017

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Residential Tenancy Branch