



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **Amended DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

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

### Issues(s) to be Decided

This is a request for a monetary order for \$5,926.56. At the beginning of the hearing the applicant stated they have now had further losses and wanted to increase the total claim to \$7,747.22; however I inform the applicant that she was limited to the amount she put on the original application and therefore would have to file a separate claim for the new losses.

### Background and Evidence

The applicant testified that:

- The tenants signed a one-year lease that was to run from October 1, 2008 until September 30, 2009.
- The tenants subsequently broke that lease and vacated the rental unit on January 31, 2009, and agreed to only pay rent to the end of February 2009.

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- The landlord has attempted to re-rent the unit and has spent a great deal of money on advertising but to date has been unable to re-rent the unit.
- Since applying for this hearing the tenants have paid a further \$325.00 of the February 2009 rent and therefore only \$600.00 remains outstanding for February 2009.

The applicant is therefore asking for the following:

February 2009 rent outstanding	\$600.00
April 2009 lost rental revenue	\$1850.00
Advertising costs	\$250.56
Property management fee	\$925.00
Registered mail	\$26.00
Filing fee for this hearing	\$100.00
Total	\$5601.56

The respondent testified that:

- When they signed the lease they fully intended to stay for the full year, but they did inform the landlord that if circumstances changed, their intention to stay the full year may have to change.
- In response to the above statement the landlord stated “I understand, I'm not that difficult to deal with. Besides this property has never been a problem to rent out.”
- They took the above statement to mean that they were allowed to break the lease if circumstances changed.
- They were not able to find suitable employment in the Kelowna area and therefore when an opportunity in White Rock B.C. became available they decided they had to take it, as they would not have been able to afford the rent anyway.

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- They gave two months notice in December 2008 and agreed to pay rent to the end of February 2009; even though they vacated at the end of January 2009.
- The landlord had also restricted access to the partner of one of the tenants and therefore the tenant had no alternative but to leave the residence to be able to continue the relationship with her partner.

The tenants therefore believe that they should not be held liable for any rent past the end of February 2009.

## Analysis

When landlords and tenants sign a lease it is for the security of both the landlord and the tenant. It gives the tenants the security of knowing that they will not have to move for the term of that lease and it gives a landlord the security of knowing that they will have a tenant in place for the term of that lease.

However along with the security of the lease comes the obligation of complying with the terms of that lease. When it comes to the length of the tenancy, the landlord is obliged to allow the tenants to stay in the rental unit until the end of the term of the lease; however the tenant is also obliged to continue renting the unit until the end of the term.

If the tenants choose to vacate the rental unit before the end of the lease and the landlord is unable to re-rent the unit, even though they have made reasonable attempts to re-rent it, the tenants are liable for the cost of attempting to re-rent and for any loss of rental income that results.

In this case it is my decision that the respondents are liable for the landlord's costs of advertising, property management fees, and for the lost rental revenue.



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The tenants have not shown the landlord had agreed to allow them to break the lease. The landlord's comments, at most, show willingness to attempt to re-rent the unit if the tenants were to break the lease.

I will therefore allow the landlord's full claim, other than the \$26.00 claim for registered letters.

## Conclusion

I've issued an order for the respondents to pay \$5,575.56 to the applicant.

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*.

**NOTE: THIS DECISION CORRECTS AND REPLACES THE DECISION I ISSUED ON May 21, 2009, WHICH HAD A CLERICAL ERROR.**

Dated: August 17, 2009

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Dispute Resolution Officer