



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** *MNDC, FF*

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income, cost to replace an elevator key and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to a monetary order for loss of income and the filing fee? Is the landlord entitled to retain the security deposit in satisfaction of his claim?

### **Background and Evidence**

The tenancy started on November 01, 2009 for a fixed term of one year. Rent was \$1,500.00 per month due on the first of the month. The tenant paid a security deposit in the amount of \$750.00.

On January 11, 2010, the tenant notified the landlord of his intentions to end the tenancy effective February 01, 2010. The tenant cooperated with the landlord's efforts to find a new tenant. The tenant moved out on January 28, 2010 and left the elevator key in the elevator. The landlord stated that the key went missing and he was required to pay \$50.00 to replace it.

The landlord found a tenant for March 01, 2010. The landlord allowed the new tenant to move in prior to March 01.

The landlord is claiming the following:

1.	Rent for February 2010	\$1,500.00
2.	Replacement of elevator key	\$50.00
3.	Filing fee	\$50.00
	Total	<b>\$1,600.00</b>

### **Analysis**

Section 45(2) of the *Residential Tenancy Act* states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) Is not earlier than one month after the date the landlord receives the notice
- (b) Is not earlier than the date specified in the tenancy agreement as the end of the tenancy and
- (c) Is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

The tenant entered into a fixed term tenancy and ended the tenancy prior to the end date, without giving the landlord adequate notice. Therefore the landlord is entitled to any loss of rent up to the earliest time that the tenant could have legally ended the tenancy. The landlord advertised the availability of the suite and found a tenant for March 01, 2010. Therefore I find that the landlord is entitled to his claim of \$1,500.00 towards rent for the month of February 2010.

The tenant agreed that he had left the key in the elevator. Therefore, I find that the tenant is liable to cover the cost of replacing the lost key. Even though the landlord did not provide evidence to support his claim of \$50.00, I find that this claim is reasonable and I award the landlord \$50.00 to replace the elevator key.

The landlord has proven his case and is therefore entitled to the recovery of the filing fee of \$50.00.

Overall the landlord has established a claim of \$1,600.00. He currently has in his possession the tenant's security deposit of \$750.00.

I order that the landlord retain the security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$850.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord a monetary order for the amount of **\$850.00**.

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: August 19, 2010.

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Dispute Resolution Officer