



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, MNSD, FF

### Introduction

This is an application by the Landlord for a monetary order for unpaid rent, loss of rental income and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave affirmed testimony.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to keep all or part of the security deposit?

### Background and Evidence

This tenancy began on July 1, 2010 on a fixed term tenancy until June 30, 2011 as shown in the submitted signed tenancy agreement. The Tenant gave notice to end the Tenancy on February 15, 2011 to move out March 15, 2011. The monthly rent was \$1,375.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$687.50 was paid on July 3, 2010. Both parties have confirmed these facts.

The Landlord served the Tenant with the notice of hearing and evidence package on March 21, 2011 by registered mail. The Tenant has confirmed receiving the package. The Tenant served the Landlord with his evidence package on April 1, 2011 in person. The Landlord disputes this stating that service did not occur until April 4, 2011.

The Landlord has stated that advertising for the unit started as soon as notice was received and that the rental unit remains unrented. The Tenant disputes the Landlord's attempts at mitigating their losses by stating that he placed his own craigslist ads advertising the rental unit and referred them to the Landlord. The Tenant has not provided any evidence to support this claim that the prospective Tenant's made application for the rental. The Tenant disputes that the Landlord tried to mitigate their loss because the Landlord re-advertised the unit at the higher rent of \$1,400.00 with no applicants. The Landlord states that over the re-renting process, that only 1 person made an application for rental (at the lower rental rate of \$1,375.00) but that that person later decided not to take the unit. The Tenant states that they were only given notice of one viewing of the rental unit.

### Analysis

Based upon the direct evidence of both parties, I am satisfied that both were properly served with the notice of hearing and evidence packages. Although the Tenant's evidence was in dispute as to when it was served, I find that based upon the written summary of the Tenant's timeline of events and the inclusion of the Tenant's issues regarding the Tenancy that there is no bias to the Landlord.

The Tenant has confirmed the Landlord's claim in direct evidence that notice was given on February 15, 2011 to move out on March 15, 2011. I find this to be a breach of the Tenancy Agreement in which improper notice was given to the Landlord. The Tenant has confirmed only paying ½ of the March 2011 rent. I find that the Landlord has established a claim for the \$687.50 in unpaid rent.

The Landlord claims that because of the improper notice and that the Tenant's are subject to a fixed term tenancy that does not end until June 30, 2011 that they are entitled to the loss of rental income for April of \$1,375.00. The rental unit remains empty even though the Landlord has made efforts to re-rent the unit. I am satisfied that the Landlord has established a claim for loss of rental income for April. As such, I find that the Landlord is entitled to \$1,375.00.

The Tenant has brought forward issues regarding the Tenancy and the reasons in ending the Tenancy, but has not made application for dispute resolution in these matters. As such, I decline to hear these issues raised by the Tenant.

The Landlord has established a claim of \$2,062.50. The Landlord is also entitled to the recovery of the \$50.00 filing fee. I order that the Landlord retain the \$687.50 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$1,425.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Landlord is granted a monetary order for \$1,425.00.  
The Landlord may retain the security deposit.

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: April 07, 2011.

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Residential Tenancy Branch