



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, 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.

### Issue(s) to be Decided

This is an application for a monetary order for \$1385.34, the applicant also filed an amended application for additional costs in the amount of \$66.20; however these additional costs all relate to costs to pursue you the dispute resolution process, and I have no authority to award costs other than the filing fee. I therefore will not be issuing any award in the claim for additional costs.

I therefore deal with the original claim below.

### Background and Evidence

The applicant testified that:

- The tenant breached the fixed term tenancy agreement, and as a result they lost the full rental revenue for the month of February 2011.
- The tenant moved out at one of the worst times of the year for re-renting and therefore it made it very difficult to find a new tenant.

- To be able to re-rent the unit they eventually accepted rent that was \$75.00 less per month than the respondent had been paying.
- They also had advertising costs to attempt to re-rent the unit.
- They also had registered mail costs related to the dispute resolution process.
- They have also had Small Claims Court filing fees related to the enforcement of a previous dispute resolution order.

The applicants are therefore requesting an order as follows:

Lost rental revenue for February 2011	\$975.00
Advertising costs	\$64.64
Registered mail costs	\$18.70
Small Claims Court filing fees	\$52.00
Dispute resolution filing fee	\$50.00
Total	\$1385.34

The respondent testified that:

- The landlords had already been awarded three months rent in a previous dispute resolution hearing and therefore they knew that the rental unit would not rent at the amount they were asking, and yet they still did not reduce the amount they were asking for rent in any of their advertisements.
- He believes that if the landlords had reduced the asking amount in the advertisements, the unit would have rented faster and they would not have lost so much rent.
- The landlords were also already awarded \$100.00 for advertising costs in a previous hearing and he does not feel he should have to pay anything further.
- He also does not believe he should have to pay anything further for the reduced amount rent collected for the last three months of the term of his original tenancy, because he has already been ordered to pay a substantial amount due to the landlord's failure to reduce the rent earlier, to make the unit easier to re-rent.

The respondent therefore believes this full claim should be dismissed.

In response to the tenant's testimony the landlord stated:

- They did not lower the asking price for the rental unit even though it was not re-renting, because they had previously been able to get \$975.00 per month rent and therefore they believed they could still re-rent it for that amount.
- They believe it is the tenant's fault that they could not re-rent it at \$975.00 per month because as stated earlier the tenant chose to move out at the beginning of winter which is a very difficult time to re-rent the unit.

### Analysis

It is my decision that it was not reasonable for the landlord to continue asking \$975.00 per month for the rental unit when they knew it had not rented for that amount even though they had been advertising it for the past four months.

The landlords themselves testified that they knew that the winter was a poor time to try and re-rent the unit, and therefore they should not have expected that they would still be able to get the full \$975.00 per month even after trying for 3 months.

Therefore by failing to reduce the asking price for the rental unit is my decision that the landlords failed to mitigate their losses and I deny the claim for lost rental revenue for February 2011, and for the cost of running advertisements which still asked for the full \$975.00.

I will allow the claim for lost rental revenue for three months however because, by accepting lower rent when it was offered, the landlords were finally taking steps to mitigate the loss, and therefore it's reasonable that the respondent should cover the difference in rental revenue for those three months.

I will make no award for registered mail costs, because as stated earlier these are costs of the dispute resolution process and I have no authority to award costs.

I also deny the request for Small Claims Court filing fees, as this is a fee that should be added on to the Small Claims Court application.

I further order that the applicants bear the \$50.00 cost of the filing fee that they paid for their application for dispute resolution, because I have only awarded a small portion of their claim.

Conclusion

I have allowed \$225.00 of the claim and have issued a monetary order in that amount.

The remainder of this claim is dismissed without leave to reapply.

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: June 13, 2011.

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Residential Tenancy Branch