



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MNDC, MNSD, 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, advertising costs and for the recovery of the filing fee. The landlord also applied to retain the security deposit.

The landlord testified that she served the tenant with the notice of hearing by registered mail to the address provided by the tenant. The landlord filed a tracking slip. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was 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, advertising costs and the filing fee? Is the landlord entitled to retain the security deposit?

### **Background and Evidence**

The landlord testified that the tenancy started on November 01, 2011 for a fixed term of one year ending on October 31, 2012. At the end of the first month of the tenancy, the tenant provided verbal notice to end the tenancy and moved out at the end of December 2011. Upon receiving the notice to end tenancy, the landlord advertised the availability of the unit online and on a rental agency site. The landlord filed copies of the advertisements and a copy of a receipt in the amount of \$25.00 to advertise with the rental agency.

The landlord stated that because of the holiday season in December, she was unable to find a tenant for January 2012. She continued to make efforts to find a tenant and in January lowered the rent to \$1,100.00. Eventually a tenant was found for February 2012 at a monthly rent of \$1,050.00. The landlord filed a copy of the tenancy agreement with the new tenant.

The landlord is claiming \$25.00 in advertising costs, \$1,200.00 for rent for January, \$1,350.00 for the loss of income for the balance of the fixed term, due to a reduced rent and \$50.00 for the filing fee.

### **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.

Based on the undisputed testimony and documentary evidence of the landlord, I find that by moving out in December 2011, the tenant was not in compliance with the terms of the fixed term tenancy agreement. The landlord has proven that she mitigated her losses by actively looking for a tenant and reduced the rent to enable her to find a new tenant. I find that the landlord did suffer a loss of income for January in the amount of \$1,200.00. By reducing the rent the landlord also suffered a loss of income in the amount of \$150.00 per month for the balance of the term (9 months). Since the landlord has proven her case, she is entitled to the filing fee of \$50.00.

Overall the landlord has established a claim of \$2,550.00 for loss of income, \$25.00 for advertising costs and \$50.00 for the filing fee. I order that the landlord retain the security deposit of \$800.00 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 \$1,825.00. 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 of **\$1,825.00**.

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: March 30, 2012.

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Residential Tenancy Branch