



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent – Section 67;
2. A Monetary Order for compensation for loss – Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenants were each served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenants did not appear at the Hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on June 1, 2010 for a fixed term to May 31, 2011. Rent in the amount of \$8,000.00 was payable monthly and at the beginning of tenancy the Landlord collected \$4,000.00 as a security deposit. The Tenant provided notice to end the tenancy on February 28, 2011 and failed to pay February rent. The Tenant agreed that the Landlord could retain the security deposit in lieu of half of February’s rent. A move-in inspection was completed by the Parties however despite numerous calls to the Tenants to schedule and attend a move-out inspection, the Tenants failed to return the Landlord’s calls. The Landlord did not complete a move-out inspection report. The unit was advertised on craigslist immediately upon receiving the Tenant’s notice to end the

tenancy however was not able to rent the unit until May 1, 2011. The Landlord claims unpaid February 2012 rent and lost rental income for March and April 2011. The Tenant left the unit unclean and the Landlord claims \$1,000.00 as costs to clean the unit. The Landlord did not file as evidence an invoice for the costs as none could be found nor did the Landlord file as evidence photos of the state of the unit at move-out.

### Analysis

Section 45 of the Act provides that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than the date specified in the tenancy agreement as the end of the tenancy. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that costs for the damage or loss have been incurred or established and that steps were taken by the claiming party to minimize or mitigate the costs claimed.

Based on undisputed evidence, I find that the Tenant failed to pay full rent for February and caused the Landlord as loss of rental income for March and April 2012 by ending the fixed term tenancy prior to the end date. I find that the Landlord took actions to mitigate its losses by advertising the unit immediately upon receiving the notice to end tenancy and by filling the unit for the month of May 2012. I find therefore that the Landlord has substantiated its claim for unpaid rent and lost rental income in the amount of **\$24,000.00**. As the Landlord did not file an invoice or photos of the unit as move-out, I find that the Landlord has not established the costs claimed and I dismiss this part of the application. As the Landlord has been successful with its claim, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$24,100.00**. Setting the security deposit plus interest of **\$4,000.00** off this entitlement leaves **\$20,100.00** owed by the Tenant to the Landlord.

Conclusion

I **order** that the Landlord retain the **deposit** and interest of \$4,000.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$20,100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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 19, 2012.

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Residential Tenancy Branch