



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for compensation for loss under the Act, to keep all or part of the security deposit, and the filing fee for the claim

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on March 5, 2012, a Canada post tracking number was provided as evidence of service, the tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

### Issue(s) to be Decided

Is the landlord entitled to compensation for loss under the Act?  
Is the landlord entitled to keep all or part of the security deposit?

### Background and Evidence

The parties entered into a one year fixed term tenancy commencing June 10, 2011. Rent in the amount of \$850.00 was payable on the first of each month. A security deposit of \$425.00 and a pet deposit of \$425.00 were paid by the tenants. Tenancy ended on February 29, 2012.

The landlord's agent testified that the tenants breached the one year fixed term agreement. The landlord stated they advertised the rent unit and just after they filed their application for compensation they were able to rent the unit commencing March 4, 2012. The landlord stated they are now seeking \$83.83 for loss of revenue.

The landlord's agent testified the tenants did not properly clean the stove and they were required to pay \$45.00 to have the stove properly cleaned. Filed in evidence is a photograph of a stove.

The landlord's agent testified that she has sent the tenants a cheque for \$721.17. and is seeking to retain the balance of \$128.83 of the tenants security deposit.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard.

To prove a loss and have one party pay for the loss requires the other party to prove four different elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

In this case, landlord has the burden of proof to prove a violation of the Act and a corresponding loss.

The evidence was the parties entered into one year fixed term tenancy agreement which commenced on June 10, 2011. The tenancy ended on February 29, 2012.

The Residential Tenancy Act states - Tenant's notice

45 (2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that  
(b) is **not earlier than the date specified in the tenancy agreement** as the end of the tenancy. [Emphasis added]

I find that the tenants have breached section 45 of the Act as the earliest date they could have legally ended the tenancy was June 30, 2012, as stated in the tenancy agreement. As a result of the tenants not complying with the terms of the tenancy agreement the landlord suffered a loss of rent for March 2012 .

The Residential Tenancy Act states - Liability for not complying with this Act or a tenancy agreement

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

The evidence of the landlord's agent was that they did advertise the rental unit and were able to find new tenants for March 4, 2012. I find that the landlord took reasonable steps to minimize the loss. Therefore, I find the landlord is entitled to recover loss of rent for March 2012, in the amount of **\$83.83**.

The evidence of the landlord's agent was the tenants did not properly clean the stove at the end of tenancy. Photographic evidence support the landlord claims that additional cleaning was required. The policy guideline states the tenant at the end of the tenancy must clean the stove top, elements and oven. I find that the tenants did not comply the policy guidelines and the landlord suffered a loss. Therefore, I grant the landlord compensation in the amount of **\$45.00**.

I find that the landlord has established a total monetary claim of **\$178.83** comprised of above amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$128.83** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$50.00**

### Conclusion

The landlord is granted a monetary order for the balance due.

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: May 04, 2012.

---

Residential Tenancy Branch