



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, 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 compensation for loss – Section 67;
2. An Order to retain all or part of the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenants were each 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 started on November 15, 2011 with a second tenancy agreement signed for a fixed term from August 1, 2011 to July 31, 2013. On January 21, 2013 the Tenants provided notice to end the tenancy for February 28, 2013. Rent of \$2,600.00 was payable monthly and the security deposit has since been returned to the Tenants.

The Landlord states that when the Tenants gave notice the Landlords were leaving on a vacation to return on February 21, 2013. The Landlord states that they agreed to have the Tenants place an ad for the rental of the unit while they were gone, that they took their computer with them on vacation and that the Tenants forwarded several interested

parties to them. The Landlord states that these persons were all called while they were on vacation but that they were informed that the Landlord would not be able to interview them until their return. The Landlord states that on their return only two parties remained interested however both of these persons changed their minds so the Landlord placed an ad on craigslist and found new tenants for April 15, 2013. The Landlord did not provide copies of the advertisements as evidence. The Landlord claims lost rental income of \$3,900.00.

The Tenants state that they had to end the tenancy for financial reasons and that they took photos of the unit, placed ads, had four to five open houses and showed the property to several prospective tenants who had given notice and were looking for March 1, 2013 tenancies. The Tenant states that they tried their best to make everything as simple as possible for the Landlord and new tenants to take over the lease and had found fourteen excellent prospective tenants, including professionals for the Landlords by the middle of February 2013. The Tenants states that they even attempted to arrange and establish Skype interviews for the Landlord.

The Landlord states that although they left their daughter and her husband in charge of the tenancy in case of emergency, the Landlord did not ask their daughter to act as agent in obtaining new tenants as the Landlord has only ever interviewed prospective tenants themselves in order to get a personal feeling about them. The Landlord states that they did not consider finding any other person as an agent for the same reason.

### Analysis

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 reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Given the Landlord's evidence that no steps were taken to obtain an agent to act for them in relation to interviewing or meeting prospective tenants while they were on vacation,

considering the number of interested persons that were ready for a March 1, 2013 occupancy and considering that no evidence has been filed in relation to the advertisements for a new tenancy, I find on a balance of probabilities that the Landlord has not substantiated reasonable efforts to mitigate the losses claimed. I therefore dismiss the Landlord's application.

### Conclusion

The Landlord's application is dismissed.

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 04, 2013

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Residential Tenancy Branch

