



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNDC, FF

### Introduction

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

The Tenant applied on April 29, 2013 for:

1. An Order for the return of double the security deposit – Section 38; and
2. A Monetary Order for compensation or loss - Section 67.

The Landlord applied on June 12, 2013 for:

1. An Order to retain all or part of the security deposit – Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

This matter was set for a conference call hearing at 9:00 a.m. on this date. The line remained open while the phone system was monitored for ten minutes. The only participant who called into the hearing during this time was the Landlord. The Tenant failed to attend to present their claim. The Landlord appeared and was ready to proceed. In the absence of the Tenant, I dismiss the Tenant’s claim.

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 retain all or part of the security deposit?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on February 1, 2013 for a fixed term to January 31, 2014. The Tenant moved out of the unit on March 29, 2013 without written notice. Rent of \$875.00 was payable monthly and at the outset of the tenancy the Landlord collected \$437.50 as a security deposit. The Landlord advertised the unit on a free website on March 29 or April 1, 2013 and obtained a new tenancy for April 16, 2013. The Landlord claims retention of the full security deposit in lieu of lost rental income.

### Analysis

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 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. Although the Landlord's application does not include a specific check mark on the application for compensation, given the notes in the body of the application, I find that it was clear that the Landlord claimed lost rental income. As a result, and based on the evidence of the Landlord, I find that the Landlord has substantiated lost rental income of \$437.50 and is entitled to retain the full amount of the security deposit of \$437.50 plus zero interest. As the Landlord's application has been successful, I find that the Landlord is also entitled to recovery of the \$50.00 filing fee.

### Conclusion

I order the Landlord to retain the security deposit of \$437.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for **\$50.00** for the remaining amount. 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: July 22, 2013

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Residential Tenancy Branch

