



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, 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 - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant 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?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on June 1, 2012 for a fixed term ending May 30, 2013. The Tenant gave one day notice and tenancy ended on January 29, 2013. The Landlord claims lost rental income for February, March and April 2013.

The Landlord states that the Tenant informed the Landlord in October 2013 of the intention to end the tenancy and that the Tenant also enquired about a sublease. The Landlord states that after speaking with the Strata he discovered that the Strata has a one tenancy rule that where a tenancy ends, the Landlord must go on a waiting list

before the unit may be rented again. The Landlord states that given this rule, he could not sublet the unit and informed the Tenant of this. The Landlord states that he also denied the Tenant an opportunity to sublease as the Landlord did not think the Tenant's reason for ending the tenancy was valid: that the Tenant was moving in with his girlfriend. The Landlord states that he applied to get on the waiting list in December 2012. The Landlord states that at the beginning of February 2013 the Strata informed him that he would be able to rent the unit for March 2013 and that the Landlord then placed ads for March 1, 2013 availability. The Landlord states that he placed a couple of ads and got no tenants but was able to obtain a tenant for May 1, 2013 at a reduced monthly rent of \$950.00.

The Tenant states that new tenants were obtained by the Tenant for December 2012 occupancy and that that Landlord refused these tenants and told the Tenant that he had no idea when the Landlord could get on the wait list. The Tenant states that since there is nothing in the tenancy agreement disallowing a sublet it was unfair.

### Analysis

The tenancy agreement provides for the consideration of a sublease. Section 34 of the Act provides that a Landlord must not unreasonably withhold a consent required for a sublease. Given that the tenancy agreement provides for consideration of a sublet and given that the Landlord did not provide consent to sublet due to a Strata rule that the Landlord would reasonably have known or should have reasonably known about prior to entering into the tenancy agreement, I find that it would now be unfair for the Tenant to assume costs due to the Landlord's failure or inability to provide reasonable consent as required under the Act.. 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: August 15, 2013

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Residential Tenancy Branch

