



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION ON REQUEST FOR CLARIFICATION

Dispute Codes: FF MNDC MNR MNSD

The Applicant/Landlord has requested a clarification of the Residential Tenancy Branch decision dated July 22, 2013.

Section 78 of Residential Tenancy Act enables the Residential Tenancy Branch to clarify a decision or order.

The Landlord requests clarification on why the Landlord was not found entitled to both the liquidated damages and lost rental income as claimed. The Landlord provides legal definitions of “liquidated damages” as evidence of why both should have been awarded to the Landlord and submits that if a choice had to be made the Landlord would have chosen the lost rental income.

To further clarify the Decision, the choice of including a liquidated damages clause in a fixed term agreement is made at the time the agreement is prepared by the Landlord. As the Decision otherwise sets out the legal standard applied, and as the Landlord has supplied legal definitions as evidence to support the request, I find that the Landlord has only provided additional argument and as the Act does not provide for such argument on a request for clarification, I decline to provide any further clarification.

The Landlord request clarification of the dismissal of the Landlord's claim for utilities and provides the paragraph contained in the tenancy agreement in relation to the payment of utilities. In providing clarification for the dismissal of the claim for utilities, I provide the following additional reasons:

- the paragraph on utilities in the tenancy agreement refers to a separate utilities agreement and no such agreement was provided as evidence;
- the invoices submitted do not contain the same address as the dispute unit;
- no evidence was provided from the individual named on the utility invoices indicating that utilities were paid on behalf of the Tenant by this person; and
- the handwritten amounts circled on the invoices do not equate to the amounts claimed by the Landlord.

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 26, 2013

Residential Tenancy Branch