



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REQUEST FOR CLARIFICATION

Dispute Codes: FF MNDC MNR OPR

The applicant has requested clarification to a decision of the Residential Tenancy Branch dated August 29, 2013

Section 78(1)(B) of Residential Tenancy Act enables the Residential Tenancy Branch to clarify the decision and order.

The applicant requests clarification about why their claim for August 2013 rent of \$885 was dismissed without leave to reapply. The applicant also requests that the dismissal be changed to read “dismissed with leave to reapply”.

Analysis

The decision listed the following four part test under Analysis:

An applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement;
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation;
3. The value of the loss; and
4. The party making the application did whatever was reasonable to minimize the damage or loss.

Only when the applicant has evidence which meets all four criteria will a review be granted on this ground.

In this case I found that the applicant did provide sufficient evidence to meet the burden to prove they did what was reasonable to minimize their loss of August 2013 rent. I made this finding in part because the evidence before me indicated the Landlord had prior knowledge that the Tenant would be vacating the unit by August 1, 2013, and they did not provide evidence to support they took action to advertise or show the unit to get it re-rented as soon as possible. Furthermore, they waited until August 7th, 2013 before they checked to see if the Tenant had vacated.

To clarify, I found the Landlord had not met the burden to prove **all four** of the listed criteria and the claim was dismissed.



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Accordingly, the original Decision and Order of August 29, 2013, stand.

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 14, 2012

Residential Tenancy Branch