



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNDC, FF

### Introduction

This hearing was scheduled in response to the landlord's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

In response to the tenant's application, a previous hearing was held in a related dispute between these parties (file # 801191) with a decision issued by date of July 10, 2013. Pursuant to the decision, a monetary order was issued in favour of the tenant in the amount of \$900.00, reflecting the double return of the security deposit, in addition to recovery of the filing fee.

Pursuant to a written tenancy agreement, the fixed term of tenancy is from July 1, 2012 to June 30, 2013. Monthly rent of \$850.00 is due and payable in advance on the first day of each month, and a security deposit of \$425.00 was collected.

The tenant gave notice on February 26, 2013, of her intent to end tenancy effective March 31, 2013. Subsequently, the tenant vacated the unit on March 28, 2013. The landlord's agent testified that on-line advertising for new renters was begun right after the landlord received the tenant's notice. New renters were not found for the unit until effective from May 1, 2013. The landlord's agent testified that for some prospective new renters, there was greater interest in units located higher up in the building when

compared to the location of the subject unit. In the result, the unit was vacant for the month of April 2013, and the landlord seeks loss of rental income for that month.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 45 of the Act speaks to **Tenant's notice**, in part as follows:

45(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 7 of the Act addresses **Liability for not complying with this Act or a tenancy agreement**:

7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Based on the documentary evidence and testimony of the parties, I find that the tenant's manner of ending the fixed term tenancy did not comply with the above statutory provisions. I further find that the landlord undertook to mitigate the loss of rental income by advertising for new renters in a timely fashion.

In the result, I find that the landlord has established entitlement to compensation of \$850.00 for loss of rental income for April 2013, in addition to recovery of the \$50.00 filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$900.00** (\$850.00 + \$50.00). Should it be necessary, this order may be served on the tenant, 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: October 16, 2013

---

Residential Tenancy Branch

