



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LeGers Properties Inc. DBA-Wild Rose Apartments  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNDC, MNR, FF

### Introduction

This is an application for a Monetary Order for \$719.50, a request for recovery of the \$50.00 filing fee, and a request to retain the full security deposit towards the claim.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award of \$719.50 and recovery of the \$50.00 filing fee?

### Background and Evidence

The applicant testified that back:

- She received a Notice to End Tenancy from the tenant on June 1, 2013 and the tenant indicated that she would be vacating at the end of June 2013; however any notice received in the month of June his valid for the end of the following month which would make the end of tenancy date July 31, 2013
- However since the tenant indicated that she would be vacating at the end of June 2013 she advertised the unit for rent to attempt to re-rent it for July 2013, however she was unable to do so.

- She was able to re-rent the unit for August 1, 2013, however she lost the full July 2013 rental revenue of \$625.00.
- The tenant also left the carpets in the rental unit in need of cleaning.

The applicant is therefore requesting a Monetary Order as follows:

July 2013 lost rental revenue	\$625.00
Carpet cleaning	\$94.50
Filing fee	\$50.00
Total	\$769.50

The respondent testified that:

- She does not dispute the claim for carpet cleaning.
- She admits that she did server the Notice to End Tenancy on the landlord one day late, however she does not believe that one day would have made any difference to whether or not the landlord was able to re-rent the unit for July 2013, and therefore she does not believe she should have to pay for the lost rental revenue for the month of July 2013.

### Analysis

As stated above the tenant does not dispute the claim for carpet cleaning, and therefore I allow that portion of the claim.

It's also my finding that the tenant is liable for lost rental revenue for the month of July 2013.

When the tenant gives a Notice to End Tenancy, they must give at least one full month notice, and therefore if the tenant wished to end the tenancy at the end of June 2013, a Notice to End Tenancy would have to have been given in the month of May 2013.

Section 53 of the Act States:

**53** (1) If a landlord or tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with sub-Section (2) or (3), as applicable.

(2) If the effective date stated in the notice is earlier than the earliest date permitted under the applicable Section, the effective date is deemed to be the earliest date that complies with the Section.

(3) In the case of a notice to end a tenancy, other than a notice under Section 45 (3) *[tenant's notice: landlord breach of material term]*, 46 *[landlord's notice: non-payment of rent]* or 50 *[tenant may end tenancy early]*, if the effective date stated in the notice is any day other than 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, the effective date is deemed to be 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

(a) that complies with the required notice period, or

(b) if the landlord gives a longer notice period, that complies with that longer notice period.

In this case the Notice to End Tenancy was given on June 1, 2013, and therefore the end of tenancy date is self-correcting to the end of July 2013.

Section 7 of the Residential Tenancy Act states:

**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.

Therefore the landlord does have an obligation to attempt to re-rent the unit, however it's my finding that in this case the landlord did do whatever is reasonable to attempt to re-rent the unit, but was unable to do so for the month of July 2013.

I therefore allow the landlords claim for lost rental revenue in the amount of \$625.00.

I also order recovery of the \$50.00 filing fee.

### Conclusion

I have allowed the landlords full claim of \$769.50, and I therefore order that the landlord may retain the full security deposit of \$312.50, and have issued a Monetary Order in the amount of \$457.00.

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 03, 2013

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Residential Tenancy Branch

