



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

Landlord: MNDC, FF  
Tenant: CNL, LAT, LRE, O, OLC

### **Introduction**

This hearing was convened in response to cross-applications by the parties for dispute resolution. Both parties filed their application January 02, 2014 pursuant to the *Residential Tenancy Act* (the Act).

Despite the tenant having made application for dispute resolution and having been given confirmation to attend this matter at this date and time the tenant did not participate in the conference call hearing. As a result, their application is preliminarily **dismissed**. The landlord testified the tenant vacated over one month ago and it must be noted that the tenant's application is not relevant to a non-surviving tenancy.

The landlord was 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?

### **Background and Evidence**

The relevant evidence in this matter is as follows. The tenancy began as a written tenancy agreement in October, 2013. A copy of the contractual agreement signed by the parties was submitted into evidence. At the outset of the tenancy the landlord collected a security deposit in the amount of \$490.00 of which the landlord retains \$240.00 in trust, having returned the balance to a co-tenant. The landlord claims the parties arrived at agreement for all the occupants of the rental unit to vacate the unit December 31, 2014. The landlord provided evidence the agreement was predicated upon the landlord's use of the rental unit to accommodate another family use as of January 01, 2014. One co-tenant vacated as agreed, and the remaining tenant vacated

5 days later on January 05, 2014. The landlord seeks the rent for the month of January and February 2014. The landlord testified the tenant of this matter did not pay any rent for January 2014 and they could not re-rent the unit for January and February 2014 – thus incurring a loss of revenue in the amount of \$900.00 for each month.

### **Analysis**

On preponderance of the evidence submitted, I find as follows:

I accept the parties had an agreement the tenancy was coming to an end and that the parties agreed the rental unit would be rendered vacant by December 31, 2013, to accommodate the landlord's use for the rental unit. Regardless of which, the tenant over held the rental unit into 2014 for which the landlord was not compensated for this period. I do not accept the landlord's assertion that the tenant's over holding of the unit resulted in a loss of revenue beyond January 2014. I find it was available to the landlord to take reasonable steps to mitigate or stem losses of rent revenue for the month of February 2014 upon the landlord regaining possession of the unit on January 05, 2014.

**Section 57** of the Act, in relevant part, states as follows:

#### **What happens if a tenant does not leave when tenancy ended**

**57** (1) In this section:

**"overholding tenant"** means a tenant who continues to occupy a rental unit after the tenant's tenancy is ended.

(3) A landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the rental unit after the tenancy is ended.

I find the tenant should reasonably have known that overholding the unit would result in a loss of rent revenue for the landlord for the month of January 2014. I find the landlord is owed rent for a period the tenant occupied the rental unit, and reasonable compensation for a resulting period of revenue loss. I grant the landlord loss of revenue in the amount of \$900.00. The landlord is also entitled to recover the filing fee of \$50.00 for a total award of **\$950.00**.

### **Conclusion**

The tenant's application **is dismissed**, without leave to reapply.

**I Order** that the landlord may retain the tenant's remaining security deposit of \$240.00 in partial satisfaction of the landlord's award, and **I grant** the landlord a Monetary Order

under Section 67 of the Act for the balance of **\$710.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding on both parties.**

*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: February 18, 2014

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Residential Tenancy Branch

