



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0931291 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** *MNSD, MNR, MNDC, FF*

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim.

The landlord testified that on January 06, 2014, he served the notice of hearing on the tenant by registered mail and filed a tracking slip. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to loss of income and the filing fee? Is the landlord entitled to retain the security deposit?

### **Background and Evidence**

The landlord testified that the tenancy started on August 01, 2013 for a fixed term ending June 30, 2014. The monthly rent was set at \$690.00 per month due on the first of each month. Prior to moving in the tenant paid a security deposit of \$345.00.

The landlord testified that on December 10, 2013, the tenant served him notice to end the tenancy effective December 31, 2013. The landlord started advertising the availability of the rental unit and showed the unit while the tenant was still in occupation. The landlord filed evidence to support his attempts to re rent the unit and stated that despite his attempts to re rent the unit, he was able to find a tenant for March 01., 2014 and therefore he suffered a loss of income for the months of January and February 2014.

The landlord also filed proof of the tenant's consent to allow the landlord to retain \$65.00 from the security deposit toward the cost of cleaning. The landlord is claiming a loss of income of \$1,380.00 plus \$50.00 for the filing fee for a total of \$1,430.00

### **Analysis**

Section 45(2) of the *Residential Tenancy Act* states that 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 on which the tenancy is based that rent is payable under the tenancy agreement.

The tenant moved out December 31, 2013 prior to the end date of the fixed term tenancy. Therefore the landlord is entitled to any loss of rent up to the earliest time that the tenant could have legally ended the tenancy. The landlord filed evidence to show that he actively advertised and showed the unit. A tenant was found for March 01, 2014.

Accordingly, I find that the landlord is entitled to the loss of income for January and February 2014 in the amount of \$1,380.00. The landlord has proven his case and is therefore entitled to the recovery of the filing fee of \$50.00.

Overall the landlord has established a claim of \$1,430.00. The landlord currently has in his possession the balance of the tenant's security deposit in the amount of \$280.00. I order that the landlord retain the balance of the security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,150.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord leave to retain the security deposit. I also grant the landlord a monetary order in the amount of **\$1,150.00**.

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: April 17, 2014

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Residential Tenancy Branch

