



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage to the unit - Section 67;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that each Tenant was served with the application for dispute resolution and notice of hearing *personally* in accordance with Section 89 of the Act. The Tenants did not attend the Hearing. 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 tenancy started on June 15, 2013 on a fixed term to June 15, 2014. Rent of \$1,350.00 was payable monthly on the first day of each month. The Landlord served the Tenant with a 10 day notice to end the tenancy for unpaid rent dated January 6, 2014. The Tenant moved out of the unit on or before February 8, 2014. I note that the Landlord obtained a monetary order for unpaid rent to and including February 2014 in a previous decision dated February 13, 2014. I also note that this decision sets out that

the Landlord stated at the hearing “that there is no further monetary claim for money owed or compensation for damage or loss at this time.”

The Landlord submits that the unit was advertised in early February 2014 at a reduced rental rate of \$1,250.00 but was not rented for March 2014. The Landlord submits that the Tenant caused the loss of this month’s rental income by failing to pay the earlier rent and claims \$1,350.00. The Landlord argues the Tenant is obligated to pay damages that arise as a result of their conduct in failing to pay rent prior to their move-out date and despite the Landlord’s act to end the tenancy. The Landlord argues that there was no other choice but to end the tenancy in order to obtain tenants who would pay the rent.

The Landlord submits that the Tenants failed to leave the unit reasonably clean at move-out and claims the cost of \$120.00. The Landlord provided an invoice for this cost. The Landlord submits that the Tenants failed to return the keys to the unit causing the Landlord to replace the locks. The Landlord claims the cost of \$67.11 and provides an invoice. The Landlord provided no evidence of a mutual move-in or move-out condition inspection and report or photos of the unit at move-out.

### Analysis

Section 44 of the Act sets out how a tenancy will end. Where a tenancy is ended rent is no longer payable. Further if a landlord elects to end a fixed term tenancy and sue the tenant for loss of rent over the balance of the term of the tenancy, the tenant must be put on notice that the landlord intends to make such a claim. This should be done at the time the landlord’s notice to end the tenancy is given to the tenant or while the tenant remains in possession of the premises.

Given that the Landlord ended the tenancy, did not provide any evidence that the Tenant was given any notice of an intent to claim lost rental income while the Tenant was still in the unit, and considering that the Landlord confirmed no existing intent to

make such a claim at the previous hearing, I find that the Landlord has not substantiated its claim for lost rental income and I dismiss this claim.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property. Although the Landlord provided no supporting evidence in relation to the claims for cleaning and keys, given that the submissions by the Landlord are undisputed, I find that the Landlord has substantiated that the Tenants failed to leave the unit reasonably clean and failed to return the keys to the unit. As a result and considering the invoices I find that the Landlord has substantiated its claim of **\$187.11** for the cleaning and lock replacement costs. As the Landlord's application has met with some success I find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$237.11**.

#### Conclusion

I grant the Landlord an order under Section 67 of the Act for **\$237.11**. If necessary, this order may be 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: June 26, 2014

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Residential Tenancy Branch

