



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, RR, FF

### Introduction

This hearing dealt with applications by both the landlords and the tenant. The landlords applied for a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement, and to recover the RTB filing fee. The tenant applied for a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement, and to recover the RTB filing fee.

Both the landlords and tenant attended the teleconference hearing and gave affirmed evidence.

### Issue(s) to be Decided

Are the landlords entitled to a monetary order as claimed?  
Is the tenant entitled to a monetary order as claimed?

### Background and Evidence

The tenancy agreement signed by the parties on August 9, 2013 indicates the tenancy started on August 13, 2013 and was for a fixed term ending August 13, 2014. The tenant was obligated to pay \$1,500.00 rent monthly in advance on the last day of the previous month. The tenant also paid a security deposit of \$750.00 and a pet deposit of \$750.00.

The parties agree the tenant moved out on February 28, 2014. The tenant paid \$750.00 toward rent for February 2014 and told the landlords they could keep the \$750.00 security deposit for the balance of February 2014 rent.

The landlords claim \$1,500.00 loss of rental income for the month of March 2014. The landlords' evidence is that the tenant gave one month's notice and the landlords started advertising for new tenants in the month of February. The landlords' evidence is that they put an advertisement on Craigslist and placed a sign outside the rental unit. They did showings in the month of February. They found new tenants for April 1, 2014 at a rent of \$1,225.00 plus utilities. The tenant in this application paid \$1,500.00 rent including hydro, gas, and water, but those utilities are now the responsibility of the tenants.

The tenant gave evidence that she spoke to the landlords several times before she gave notice, telling them she could not afford the rent and wanted to move. She says both landlords assured her that, if she gave notice, they "would not come after her" for breaking the lease. Asked what she thought that meant, the tenant gave evidence that she understood the landlords' words to mean they would not try to get any money from her for breaking the lease. She says if she had known the landlords would make a claim for lost rental income, she would have stayed in the rental unit and made it work.

The tenant also gave evidence that prospective tenants who viewed the rental unit during the month of February told her that the landlords wanted \$1,550.00 rent and that was too much.

The landlords deny telling the tenant they would not claim lost rental income if she broke the lease. The male landlord says he told the tenant "we'll see" because he wanted to check with the RTB about his rights.

The tenant seeks a monetary order for compensation equal to her first month's rent. She says that for the first two months of her tenancy, addicts and police were coming to the house, and someone kicked in the basement door. The tenant's evidence is that she occupied the upper level of the house and the downstairs tenant was an addict who was evicted.

The tenant says the rental unit required cleaning and painting when she moved in, the yard was not done, there was a mouse problem, and the landlord's caretaker left a rototiller in her kitchen for the first two weeks of the tenancy. The tenant also gave evidence that the downstairs tenant could open the door between the units and enter her unit at any time. She says the landlords did change the lock to address this problem.

The landlord's evidence is that the downstairs unit was not rented to anyone for the first month of the tenant's tenancy. Their evidence is that the problem downstairs tenant was probably only there for about a week.

The landlords gave evidence that the rototiller was only in the tenant's kitchen for about two days. The tenant wished to move in in mid-August rather than September, and the landscaping was complete by September 1<sup>st</sup>. The landlord says the move-in Condition Inspection Report does not indicate that there were any problems when the tenant moved in, and she should have recorded any problems at that time.

### Analysis

The landlord is entitled to retain the \$750.00 security deposit, since the parties agreed it would form part of the tenant's February 2014 rent payment.

I find that the landlords told the tenant they "would not come after her" for lost rental income if she moved out before the end of the fixed term. I found the tenant to be a credible witness, and I accept her evidence that she would not have moved out if the landlords had not assured her they "would not come after her" with a monetary claim.

Since the landlords told the tenant they "would not come after" the tenant if she moved out prior to the end of the fixed term, and since the tenant changed her course of action in reliance on their statements, the landlords are estopped from now claiming loss of rental income. I therefore dismiss the landlords' claim for a March 2014 rental income loss.

I find the tenant has not established that she is entitled to a rent reduction for the first month of her tenancy. I find the landlord evicted the problem downstairs tenant promptly. Also, a tenant is assumed to accept the condition of the rental unit to be as it was during the move-in condition inspection, unless she and the landlord agree on certain repairs or improvements such as painting. I accept the landlord's evidence that the move-in Condition Inspection Report does not indicate that the landlord will do any particular repairs or improvements at the start of the tenancy. For those reasons, I dismiss the tenant's claim for compensation in the amount of one month's rent.

The tenant is entitled to the return of her \$750.00 pet deposit. I grant the tenant a monetary order for that amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

As each party has had some success in their application, each party will bear their own filing fee.

Conclusion

I grant the tenant a monetary order for \$750.00 for the return of her pet deposit. The landlord may retain the \$750.00 security deposit.

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: July 15, 2014

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Residential Tenancy Branch

