



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNR, MNSD, MNDC, SS, FF

### Introduction

The landlord applies for a monetary award for rent and for a fee the owner was charged to locate a new tenant when the respondent tenants repudiated their fixed term lease.

The respondent tenant Ms. C.M. did not attend the hearing though I find she was duly served by registered mail, receipt of which was acknowledge at the post office by someone on her behalf on March 26, 2014.

### Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the applicant is entitled to any of the relief requested?

### Background and Evidence

Most of the essential facts are not in dispute. The rental unit is a two bedroom apartment. The tenants signed a one year fixed term lease commencing March 1, 2014. They paid a \$750.00 security deposit. Before the start of the tenancy a discord arose between them and, according to Mr. B.F., Ms. C.M. decided not to go through with the tenancy agreement. Mr. B.F. could not afford to go it alone and notified the landlord.

The landlord took immediate steps and located a new tenant for April 1.

The landlord is a property management company. It is its policy to charge the owners it works for an amount of one-half month's rent for finding tenants. It has charged the owner of this apartment building that amount and seeks to recover it from the tenants.

### Analysis

The tenant Mr. B.F. argues that the repudiation of the tenancy is Ms. C.M.'s fault and he should only be responsible for "his half" so to speak. He also points out that he landlord advertised the premises on Craigslist at no cost.

In the absence of any indication otherwise in the tenancy agreement, the two tenants are, at law, taken to be jointly and severally responsible for obligations under the agreement. As regards the landlord, they are each responsible for the whole. The landlord may collect all moneys owing by the two from either or both. As between themselves the tenants are responsible to account to each other, but that is not an issue in this proceeding.

The tenant's argument must fail. Both tenants are responsible for the March rent of \$1500.00.

I must dismiss the landlord's claim for recovery of the tenant finder fee. There is no doubt but that the landlord took immediate and effective steps to mitigate its loss in the face of the repudiation. It is fairly entitled to costs associated with finding replacement tenants. However, that is not what it seeks. It seeks to recover a cost it charged another; the owner. Under the tenancy agreement the (undisclosed) owner is not the landlord, the applicant is. Had the owner been shown as the landlord and had the owner/landlord incurred the fee, then arguably it could be claimed from the tenants, but that is not the case.

It should be noted that the tenancy agreement lacks any "liquidated damages" clause whereby the parties agree in advance to an amount considered to be a reasonable charge for the cost of locating new tenants.

### Conclusion

The landlord is entitled to a monetary award of \$1500.00 plus the \$50.00 filing fee. I authorize the landlord to retain the \$750.00 security deposit in reduction of the amount awarded. There will be a monetary order against the tenants jointly and severally for the \$800.00 remainder.

This decision was rendered orally after hearing and 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

