



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for money owed.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

### Issue to be Decided

Is the tenant entitled to a monetary order for money owed?

### Background and Evidence

The parties agreed that they entered into a fixed term tenancy agreement which began on September 1, 2013 and was to expire on last day of July 2014. Rent in the amount of \$1,100.00 was payable on the first of each month. A security deposit of \$550.00 was paid by the tenant. The tenancy ended on February 28, 2014.

The tenant testified that although her tenancy agreement does not contain a clause to receive one month free rent for signing the one year fixed term, there was a verbal agreement that she would receive her last month of rent for free. The tenant stated that she is entitled to recover the rent she paid for February 2014, in the amount of \$1,100.00.

The landlord testified that the tenant breached the fixed term agreement when they left the tenancy earlier than the date specified in the tenancy agreement. The landlord

stated that they would have given the tenant the rent incentive in July 2014, as that was the last month under the fixed term agreement. The landlord stated the tenant failed to complete her obligations under the fixed term tenancy agreement and therefore is not entitled to receive the voluntary rent incentive.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- Proof that the damage or loss exists;
- Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
- Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails. In this case, the tenant has the burden of proof to prove their claim.

The parties agreed that the tenant was entitled to receive her last month of rent for free for signing a fixed term tenancy agreement, although this was a verbal agreement and not a term in the written tenancy agreement.

In this case, the evidence of the tenant was that she is entitled to recover the rent that she paid for February 2014, as that was her last month in the rental unit. However, I find that position unreasonable, as the last month under the fixed term tenancy agreement was July 2014.

Further, the rent incentive that the tenant was entitled to receive was for signing a fixed term tenancy agreement. It would be reasonable that in order to receive the rent incentive that the tenant was required to fulfill their obligations under that agreement.

Therefore, I find the tenant has failed to prove a loss exists or a violation of the Act or agreement by the landlord. Therefore, I dismiss the tenant's application for compensation.

Conclusion

The tenant's application is dismissed.

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

