



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order for unpaid rent; damage or loss under the Act, regulations or tenancy agreement; and authorization to retain the security deposit. The tenant did not appear at the hearing. The landlord provided a registered mail tracking number as proof of service of the hearing package and testified that the registered mail was successfully delivered on April 17, 2014. The landlord testified that the tenant had provided a forwarding address to the landlord's agent during a telephone conversation on April 1, 2014 and that is the address the landlord used to send the registered mail to the tenant. I was satisfied the landlord served the tenant with the hearing package in a manner that complies with the Act and I continued to hear from the landlord without the tenant present.

### Issue(s) to be Decided

1. Is the landlord entitled to recover the amounts claimed for unpaid rent and liquidated damages?
2. Is the landlord authorized to retain the security deposit?

### Background and Evidence

The parties executed a written tenancy agreement on January 30, 2014 for a tenancy set to commence February 1, 2014 for a fixed term of one year. The tenant paid a security deposit of \$412.50 and rent of \$825.00 for the month of February 2014. On February 12, 2014 the tenant advised the landlord that she was not happy with the rental unit and that she would be moving out. The tenant vacated the rental unit before the end of February 2014 and the landlord was able to re-rent the unit starting March 15, 2014.

The landlord is seeking to recover unpaid and/or loss of rent for the days of March 1 – 14, 2014 in the amount of \$372.58, as amended during the hearing. The landlord is

also seeking to recover liquidated damages of \$300.00 based upon clause 2 of the tenancy agreement.

The landlord included the following documentation for consideration: the tenancy agreement; the condition inspection reports; the tenant's ledger; security deposit receipt; and, written summary of amount claimed.

### Analysis

Upon consideration of the undisputed submissions and evidence before me, I provide the following findings and reasons.

I find the landlord is entitled to recover unpaid and/or loss of rent from the tenant in the amount of \$372.58 for the days of March 1 – 14, 2014 since: the tenant was bound to fulfill a fixed term tenancy and she breached that agreement; I was satisfied the landlord suffered a loss of \$372.58 as a result of the tenant's breach; I was not presented evidence that the tenant ended the tenancy early in a manner that complies with the Act; and, I was satisfied the landlord made efforts to re-rent the unit in a timely manner.

Upon review of clause 2 of the tenancy agreement and upon consideration of the circumstances of presented to me, I find the landlord is entitled to further compensation of \$300.00 as claimed. I am satisfied this portion of the claim is supported by a valid and enforceable liquidated damages clause. As provided in Residential Tenancy Policy Guideline 4, a liquidated damages clause is a clause in a tenancy agreement where the parties agree in advance the damages payable in the event of a breach of the fixed term by the tenant. In this case, the \$300.00 is intended to offset the administrative costs of re-renting the unit that are incurred because the tenant fails to fulfill the fixed term and, as provided in the clause, the amount payable is in addition to loss of rent or other damages the landlord may suffer as a result of the tenant's actions. I find the amount stipulated in the liquidated damages clause to be reasonable and not indicative of a penalty. Therefore, I grant the landlord's request to recover liquidated damages of \$300.00 from the tenant.

As the landlord was successful in this application I award the landlord recovery of the \$50.00 filing fee paid for this application.

I authorize the landlord to retain the security deposit in partial satisfaction of the amounts awarded to the landlord.

In light of the above, I provide the landlord with a Monetary Order calculated as follows:

Unpaid and/or loss of rent	\$ 372.58
Liquidated damages	300.00
Filing fee	50.00
Less: security deposit	<u>(412.50)</u>
Monetary Order	\$ 310.08

To enforce the Monetary Order, the landlord must serve it upon the tenant and may file it in Provincial Court (Small Claims) to enforce as an Order of the court.

### Conclusion

The landlord has been authorized to retain the security deposit and has been provided a Monetary Order for the balance of \$310.08 to serve and enforce as necessary.

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: August 14, 2014

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Residential Tenancy Branch

