



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing dealt with a claim by the landlords for a monetary order and an order authorizing them to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing via registered mail on December 12, 2014, the tenant did not participate in the conference call hearing.

### Issue to be Decided

Are the landlords entitled to a monetary order as claimed?

### Background and Evidence

The landlord's undisputed evidence is that the tenancy began in the fall of 2013 at which time the tenant paid a \$350.00 security deposit. The tenant vacated the rental unit on or about December 2, 2014. Rent was set at \$700.00 per month.

On November 4, 2014, the tenant gave the landlords written notice advising that she was vacating the rental unit on December 1, 2014. The landlords advertised the rental unit but were unable to find a new tenant for the month of December and now seek compensation from the tenant for one month of lost income. The landlords also seek to recover the filing fee paid to bring their application.

### Analysis

Section 45 of the Act requires that tenants in a month to month tenancy to give one full month's notice to end their tenancy at the end of the following month. This means that the notice given by the tenant on November 4 could not have taken effect until December 31. Section 53 of the Act provides that when a tenant gives notice with an incorrect effective date, the effective date is automatically changed to comply with the

requirements of the Act. I find that the effective date of the tenant's notice was automatically changed to December 31 and that she was required to pay rent for the month of December. I find that the landlords acted reasonably to minimize their losses by advertising the rental unit but were unable to do so and I find that the tenant must now compensate the landlords for their loss. I award the landlords \$700.00. As the landlords have been successful in their application, I find they should recover their filing fee and I award them \$50.00 for a total award of \$750.00. I order the landlords to retain the \$350.00 security deposit in partial satisfaction of the claim and I grant them a monetary order under section 67 for the balance of \$400.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlords are granted a monetary order for \$400.00 and will retain the 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 16, 2015

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Residential Tenancy Branch

