



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MT, CNR, MNDC, MNR, FF

### Introduction

This hearing dealt with two related applications. One was the tenant's application for an order setting aside a 10 Day Notice to End Tenancy for Non-Payment of Rent and a monetary order. The other was the landlord's application for a monetary order. The landlord appeared at the hearing. Although he was served with the landlord's application for dispute resolution and notice of hearing by registered mail actually received on January 9, 2016, and he was the applicant on his own application, the tenant did not appear. As the tenant did not appear at the hearing his application is dismissed without leave to re-apply.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order and, if so, in what amount?

### Background and Evidence

This month-to-month tenancy commenced August 1, 2015. The monthly rent of \$925.00 was due on the first day of the month. The landlord did not collect a cash security deposit. The arrangement was that the tenant was to do some work for the landlord in payment of the security deposit.

On another application for dispute resolution, the file number of which is noted on the front page of this decision, the landlord was granted an order of possession and a monetary order for the last half of the November rent.

The tenant moved out of the rental unit on December 7, 2015. Despite efforts to re-rent the unit the landlord was unsuccessful. In January the landlord put the rental unit on the market for sale and has made no effort to rent it since.

### Analysis

As explained in *Residential Tenancy Policy Guideline 3: Claims for Rent and Damages for Loss of Rent* a landlord is entitled to be compensated for any loss of rent up to the

earliest time that the tenant could legally have ended the tenancy. In a month-to-month tenancy if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss of rent suffered for the next month as notice given by the tenant during the month would not end the tenancy until the end of the subsequent month. Any claim by the landlord is subject to the landlord's duty to mitigate his loss.

The tenant did not give up possession of the rental unit until it was too late for the landlord to re-rent it for any portion of December. Accordingly, the tenant is responsible for the December rent in the amount of \$925.00.

The tenant is not responsible for the January rent as the landlord removed it from the rental market.

As the landlord was successful on his application he is entitled to reimbursement from the tenant of the \$50.00 fee he paid to file it.

#### Conclusion

I find that the landlord has established a total monetary claim of **\$975.00** comprised of arrears of rent for December in the amount of \$925.00 and the \$50.00 fee paid by the landlord for this application and pursuant to section 67 I grant the landlord an order in this amount. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that court.

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: January 25, 2016

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Residential Tenancy Branch

