



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the *Act*") for a monetary order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing, although the teleconference hearing scheduled for 1:00 pm continued until 1:16 pm. Both landlords attended the hearing and were given an opportunity to present sworn testimony and to make submissions.

### Issue to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities?

### Background and Evidence

This tenancy began as a one year fixed term tenancy with a rental amount of \$1600.00 payable on the first of each month. The tenancy was renewed for a second one year fixed term. Landlord S testified that the tenant's \$800.00 security deposit had been returned to the tenant. The landlords submitted a copy of the cheque to verify the return of the security deposit.

Landlord S testified that the tenants had been notified that the landlords intended to sell the residential property and that the landlords did not intend to renew the tenant's lease. Landlord S testified, referring to a copy of the 10 Day Notice submitted with the landlord's materials, that the tenant did not pay rent on time for June 2015. However, she testified that the tenant paid the June rent on receipt of the 10 Day Notice and that the landlords did not take any further action. Landlord S testified that the tenants had not been issued a 2 Month Notice to End Tenancy related to the pending sale of the property.

Landlord S testified that the tenant vacated the rental unit on August 2, 2015 with no formal written notice. She testified that she received verbal notice on or about July 15, 2015. She submitted that the tenant should be responsible for rent for the month of August 2015 as he vacated the rental unit after July 31, 2015 without sufficient notice to allow them to re-rent the unit.

Furthermore, Landlord CW submitted that the tenant did not pay the final utility bill at the residence. He submitted that there is an outstanding balance of \$110.40 owing for the tenant's portion of the utility bill. He submitted a copy of the utility bill and indicated that the bill was divided between the landlords and the tenants, with the tenants paying 40% of the utilities. The landlord submitted that he has received a further utility bill that has an amount owed by the tenants but he did not amend his application to reflect this amount and chose not to seek this additional amount.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, the landlords provide sworn and undisputed testimony that the tenant vacated the rental unit without any written notice after the end of the fixed term and after the end of July 2015 thereby incurring an obligation rent for August 2015. The landlords both provided sworn, undisputed testimony that the tenant had failed to provide any sufficient notice that he intended to vacate the rental unit. The landlords also provided sworn and undisputed testimony that the tenant continues to owe an amount towards the utilities from the period where the tenant resided in the rental unit.

Whenever a party makes claim for damages, the party has an obligation to attempt to mitigate any damage or loss. I do not find that the landlord has shown that they have attempted to mitigate their loss or ensure that they do not incur unnecessary damages. The landlord provided no testimony to illustrate what steps they took to re-rent the unit when they became aware, as a result of the verbal notice by the tenant, that the unit would be available for the month of August 2015. The landlords did not testify that they disbelieved the tenant's verbal notice, only that he had not properly given notice. While

the notice provided by the tenant was not in accordance with the *Act*, I find that the landlords did not fully meet their duty to mitigate their loss.

In all of the circumstances, I find that the landlords are entitled to a portion (50%) of their claim for rental loss. I find that they are entitled to \$800.00 towards August 2015 rental loss and the entirety of the tenant's unpaid portion of the utility bill in the amount of \$110.40.

### Conclusion

I grant a monetary order to the landlords in the amount of \$910.40.

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: February 11, 2016

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Residential Tenancy Branch

