



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding UPPER COLLEGE HEIGHTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPN, MNSD, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord participated in the conference call hearing but the tenant(s) did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail on January 14, 2016. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence. The landlord gave affirmed evidence.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Is the landlord entitled to compensation for the costs of cleaning the unit?

Is the landlord entitled to the recovery of the filing fee for this application?

### Background and Evidence

The landlord gave the following testimony. The tenancy began on or about October 1, 2015 and was agreed by both parties that the tenancy was to end on April 30, 2016. Rent in the amount of \$525.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$250.00. The landlord stated that on December 21, 2015 the tenant gave notice that she would be moving out on December 31, 2015. The landlord stated that he did not agree to the short notice as this was a fixed term tenancy agreement. The landlord stated that he did not rent the unit out for the rest of the term as he had other units that "took priority". The landlord is seeking the loss of revenue for the months of January – April and requests to keep the security deposit for cleaning costs and because the tenant chose not to do the walk through at the end of the tenancy.

## Analysis

While I have turned my mind to all the documentary evidence and the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below.

Firstly I address the tenants notice as defined by Section 45 of the Act. That section states as follows:

### **Tenant's notice**

**45** (2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

The landlord provided documentary evidence that clearly shows that the tenant did not provide one full month's notice as outlined above, and with that short notice and with it being almost Christmas, re-renting the unit was at best a remote possibility. Based on the above I find that the landlord is entitled to the loss of rent for the month of January in the amount of \$525.00.

The landlord is seeking loss of revenue for the months of February – April, inclusive. In the landlords own testimony he stated that “this unit was never in play” as he was attempting to rent other units. The landlord stated that no attempts were made to rent this unit.

Section 7(2) of the Act addresses this issue as follows.

### **Liability for not complying with this Act or a tenancy agreement**

**7** (2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement **must do whatever is reasonable to minimize the damage or loss.**

Based on the fact that the landlord took no action to try to rent the unit, I find that he did not make reasonable efforts to mitigate his losses as is outlined above and is not entitled to the loss of revenue for February – April, inclusive.

The landlords stated that he incurred costs for cleaning but did not provide receipts to reflect the work, the exact price or the hours worked. Based on the insufficient evidence before me, I dismiss this portion of the landlords claim.

As for the monetary order, I find that the landlord has established a claim for \$525.00. The landlord is also entitled to recovery of the \$100.00 filing fee. I order that the landlord retain the \$250.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$375.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted a monetary order for \$375.00. The landlord may 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: August 29, 2016

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Residential Tenancy Branch

