



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      MNDC OLC FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide testimony, to present evidence and to make submissions.

### Issues

Is the tenant entitled to a monetary order for damage or loss?

Should the landlord be ordered to comply with the Act?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background & Evidence

The tenancy for this single room occupancy rental unit began on January 21, 2016. The current rent is \$570.00 per month. The rental unit is one of 68 units in the building. The rental unit is less than 80 square feet and contains only a sink and a bed. The tenant shares bathroom facilities with other tenants on the floor.

The tenant is claiming \$220.00 in overnight guest fees charged by the landlord. The tenant provided receipts of overnight guest fees paid by the tenant to the landlord. Two of these receipts in the total of \$100.00 are for the rental of a separate room within the

rental property. The tenant submits he was forced to rent an additional room as the landlord would not permit his guest to stay overnight. The tenant submitted a notice letter from the landlord stating that effective March 1, 2017 there will be no guests permitted to stay in a tenant's room after 10:00 p.m.

The landlord submits that they don't force tenants to pay for guests but rather beg the tenants to not bring any guests. The landlord states having overnight guests is against the landlord's policy and they only charge the overnight fee to discourage tenants from bringing guests due to safety concerns. The landlord submits the tenants signed a tenancy guideline at the beginning of the tenancy agreeing to the charge for overnight guests.

### Analysis

Subsection 5(1) of the *Residential Tenancy Regulation* (the Regulation) establishes that a landlord must not charge a guest fee, whether or not the guest stays overnight. Further, clause 9 of the schedule to the Regulation (which are the standard terms of all tenancy agreements) sets out that a landlord must not stop the tenant from having guests under reasonable circumstances in the rental unit or charge for their visits.

Further, section 5 of the Act establishes that landlords and tenants may not avoid or contract out of the Act or the Regulation and any attempt to do so is of no effect.

It was not disputed that the landlord charged overnight guest fees on at least three separate occasions in the total of \$120.00. I find the charging of these overnight guest fees to be contrary to the requirements of section 5 of the Regulation. I further find that any alleged agreement by the tenant for the charging of overnight guest fees to be an attempt to avoid the Act and Regulation and is therefore of no effect. In this case, I also accept the tenant's evidence that he had no choice but to pay for an additional room for his guest on at least two separate occasions. I make this finding as the evidence clearly supports the landlord restricted guests by first charging overnight fees and subsequently issuing a notice to tenants that overnight guests are no longer permitted. As such, in addition to the \$120.00 for overnight guest fees charged for his own room, I find the tenant is entitled to the \$100.00 incurred to rent an additional room to accommodate his guest.

I further order the landlord to comply with the Act and Regulation and immediately cease to charge fees for guests, whether or not the guests stay overnight and cease to restrict tenants from having guests under reasonable circumstances.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for this application from the landlord for a total monetary award of \$320.00. **This amount of \$320.00 may be withheld by the tenant from a future rent payment.**

Conclusion

The tenant is entitled to a monetary award for compensation for loss in the amount of \$320.00 which may be withheld by the tenant from a future rent payment.

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: April 12, 2017

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Residential Tenancy Branch