



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the rent claimed?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The following are agreed facts: The tenancy agreement provides that the tenancy started on November 1, 2015. Rent of \$2,350.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,175.00 as a security deposit. The tenancy ended on December 31, 2016.

The Tenant gave its oral notice to end tenancy on December 3 and its written notice on December 5, 2016. The Landlord advertised the unit for rent on December 3, 2016 for rent of \$2,500.00, on December 8, 2016 for rent of \$2,600.00 and on December 15, 2016 for rent of \$2,500.00. The Landlord also advertised on January 12, 2017 for rent

of \$2,500.00. A new tenant was obtained for a tenancy start date of February 1, 2017. The Landlord claims lost rental income for January 2017

### Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss. Although the Tenants did not give a full month's notice and although the Landlord advertised the unit immediately, the Landlord sought a greater amount of rent in the advertisement than what the Landlord could claim. I find that that by increasing the rent in the advertisements the Landlord failed to take any reasonable steps to mitigate the losses being claimed. As a result I dismiss the Landlord's application. I order the Landlord to return the security deposit plus zero interest of **\$1,175.00** to the Tenants forthwith.

### Conclusion

The Landlord's application is dismissed. I grant the Tenant an order under Section 67 of the Act for **\$1,175.00**. 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: June 28, 2017

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Residential Tenancy Branch