



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FF MNDCL

### Introduction

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

- a Monetary Order pursuant to section 67 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

The landlord's agent, E.D. (the "landlord") and the tenants attended the hearing. All parties present were given a full opportunity to be heard, to present sworn testimony and to make submissions.

The tenants confirmed receipt of the landlord's application for dispute resolution and evidentiary package, while the landlord confirmed receipt of the tenants' evidentiary package. I find all parties were duly served in accordance with the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award?

Can the landlord recover the filing fee?

### Background and Evidence

Testimony from the landlord explained this tenancy began on July 15, 2016. Rent was \$3,007.30 per month and a security deposit of \$1,450.00 paid at the outset of the tenancy continues to be held by the landlord.

The landlord said she was seeking a monetary award of \$9,746.09. Specifically, the landlord was looking to recover rent for March, April, May and half of June 2018, along with an unpaid hydro bill of \$10.54 and a return of the filing fee.

The landlord argued the tenants had broken a fixed-term tenancy agreement signed between the parties and consequently, the landlord has suffered a loss after they were unable to secure a new tenant until June 15, 2018.

The tenants acknowledged they had signed a fixed-term tenancy agreement that was set to run from July 15, 2017 to July 31, 2018, and that this agreement was broken when they vacated the property on February 28, 2018. The tenants explained they purchased a home in October 2017 and steps were taken in November 2017 to assign their lease. The tenants said five applications were received by the landlords during an initial attempt at assignment; however, these applications were declined by the landlords for a variety of reasons. The tenants described “maximum” efforts they made to assign their property, ultimately showing their unit forty times over a short period, and receiving five applications to rent. The tenants said they went as far as moving out of the suite and paying rent so they could continue to show the property in an effort to mitigate their loss.

The landlord acknowledged significant steps were taken by the tenants to assign their suite; however, despite these efforts no occupants were found and the property was surrendered to the landlords on February 28, 2018. The landlord described the efforts taken on behalf of her company to secure new tenants from February 28, 2018 to June 15, 2018 (the date on which a new tenant took occupancy of the unit). These efforts included placing online advertisements of four separate online noticeboards, advertising the unit on the corporate landlord’s rental website, and advertising the unit through signage on the property. The landlord said the online postings were updated and refreshed every 48 hours. Between February 28, 2018 and June 11, 2018 the landlord toured the unit 33 times and handled 66 inquiries for the property. In May 2018 rent was reduced to \$2,795.00 and the landlord explained she was able to secure a new tenant.

The tenants disputed the quality of the advertisements placed online by the landlord, noted numerous potential renters were dissuaded by the size of the second bedroom and the tenants alleged, the landlord did not give their full attention to the property because a second suite similar to the unit in question was placed back into the rental pool and took precedents over theirs.

### Analysis

Section 7 of the *Act* explains, “If a tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying tenant must compensate the other for damage or loss that results... A landlord 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.”

This issue is expanded upon in *Residential Tenancy Policy Guideline #5* which explains that, “Where the tenant gives written notice that complies with the Legislation but specifies a time that is earlier than that permitted by the tenancy agreement, the landlord is not required to rent the rental unit or site for the earlier date. The landlord must make reasonable efforts to find a new tenant to move in on the date following the date that the notice takes legal effect.”

After considering the testimony of both parties, and reviewing the evidentiary packages, I find it evident that both parties made a significant effort to re-rent the unit as quickly as possible. I dismiss the tenants argued the rental unit did not receive the full attention of the landlords due to the landlord's commitment to renting another unit in the building and was subject to poor quality photos. I find the landlord made *reasonable* efforts to re-rent the unit in an expedient fashion, after having advertised the unit on four separate online noticeboards, placing physical signage in the building and posting the unit on the corporate landlord's online rental board. The landlord described handling 33 unit tours and 66 inquiries for the unit, evidence that the unit was adequately advertised to the public.

The landlord explained that a new tenant was in place for June 15, 2018 and the unit remained unoccupied for March, April, May and the first half of June 2018. I will therefore award the landlord a monetary for the unpaid rent due under the terms of their fixed-term tenancy agreement. I will also allow the landlord to recover the outstanding \$10.54 in hydro as show in their evidentiary package.

As the landlord was successful in her application she may recover the \$100.00 filing fee from the tenants.

Using the offsetting provisions contained in section 72 of the *Act*, the landlord may withhold both the security deposit in partial satisfaction for a return of the monetary award.

Conclusion

I issue a Monetary Order of \$9,085.84 in favour of the landlord as follows:

<b>Item</b>	<b>Amount</b>
Monthly Rent March 2018	\$3,007.30
Monthly Rent April 2018	3,007.30
Monthly Rent May 2018	3,007.30
Monthly June 1-14, 2018	1,403.40
Unpaid Hydro	10.54
Return of Filing Fee	100.00
Less Security Deposit	(-1,450.00)
<b>Total =</b>	<b>\$9,085.84</b>

The landlord is provided with a Monetary Order in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: September 28, 2018

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Residential Tenancy Branch