



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC FF

### Introduction

This review hearing was scheduled based on the Tenant's application for Review Consideration made on July 15, 2020 of a decision and order made July 2, 2020. A Review Consideration decision dated July 22, 2020 granted a review hearing of the Landlord's application.

In the original application the landlord applied pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damages and loss pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Reconvened Hearing was confirmed to contain the correct hearing information. The landlord attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

### Issue(s) to be Decided

Should the original decision be affirmed, set aside and replaced or varied?

## Background and Evidence

This review hearing was granted in a Review Consideration decision of July 22, 2020. In the Review Consideration decision the arbitrator writes:

Notices of the time and date of the hearing are included with this Review Consideration Decision for the review applicant to serve to the review respondent within 3 days of receipt of this Decision. The review applicant must also serve a copy of this Decision to the other party.

The landlord testified that they have not been served with the Review Consideration Decision or any materials by the tenant.

The landlord confirmed that this fixed-term tenancy began in August 1, 2019 and was scheduled to end July 31, 2020. The monthly rent was \$1,150.00 payable on the first of each month. The tenant broke the fixed-term lease by giving verbal notice two days prior to vacating the rental suite on February 16, 2020. The landlord took efforts to mitigate rental income losses by advertising the suite but were unable to secure a new tenant until the third week of May 2020.

## Analysis

Rule 7.3 of the Rules of Procedure provides as follows:

**7.3 Consequences of not attending the hearing** – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to reapply.

I accept the evidence of the landlord that they have not been served by the Review Consideration Decision or any materials by the tenant. I find that the tenant has not served the landlord with the Notice of Review Hearing in a manner consistent with paragraph 89(1) of the Act, or at all. As such I dismiss the tenant's application for review.

I accept the evidence of the landlord that they incurred rental income losses due to the tenant's breach of the fixed-term tenancy and violation of the Act by vacating without providing proper notice to end the tenancy. I accept that the amount of the loss is \$3,179.03.

Conclusion

The decision and order of July 2, 2020 are affirmed.

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 27, 2020

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Residential Tenancy Branch