



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Third Estates Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, FF, MNDC

### Introduction

There are applications filed by both parties. The Landlord seeks a monetary claim for unpaid rent or utilities, to keep all or part of the security deposit and recovery of the filing fee. The Tenant also seeks a monetary claim for money owed or compensation for damage or loss, the return of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package, I am satisfied that both parties have been properly served. The Tenant has acknowledged receiving all of the submitted documentary evidence from the Landlord. The Tenant has admitted that he did not send his 3 page documentary evidence to the Landlord. The Landlord has confirmed this in her direct testimony. The Tenant was cautioned that this was in contravention of the Rules of Procedure for the filing of Evidence. In reviewing the Tenant's documentary evidence, it was determined that this was a 3 page written statement. The Tenant was advised that the submitted documentary evidence could not be referenced, but that he could read it into the record in his direct testimony if he wished.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order?  
Is the Landlord entitled to retain the security deposit?  
Is the Tenant entitled to a monetary order?

### Background and Evidence

This Tenancy began on March 1, 2013 on a fixed term tenancy until February 28, 2014 as shown by the submitted copy of the signed tenancy agreement. The monthly rent

was \$975.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$487.50 and a pet damage deposit of \$487.50.

Both parties agreed that the Tenant provided his notice to vacate in a letter on July 3, 2013. The Landlord states that efforts to re-rent the unit were made by posting ads on the internet, having 6 showings, but with no success. The Landlord states that the rental unit was successfully re-rented on September 1, 2013. The Landlord seeks a monetary claim of \$975.00 for the loss of rental income for August 2013 as the Tenant has breached the fixed term tenancy by ending it prematurely. The Landlord also seeks a monetary claim of \$80.00 for repair costs to the floors. The Tenant disputes this claim stating that there was no damage to the rental unit floors when he vacated on July 30, 2013. The Landlord states that the Tenant signed a handwritten note admitting that there was floor damage and that he would pay \$80.00 to compensate the Landlord.

### Analysis

I accept the undisputed testimony of both parties that the Tenant vacated the rental unit on July 30, 2013 and that the Tenant provided to the Landlord his notice to vacate in a letter on July 3, 2013. I find that the Landlord made reasonable efforts to mitigate any possible losses by immediately trying to re-rent the unit, but with no success until September 1, 2013. The Landlord has established a claim for the loss of rental income of \$975.00.

I find on a balance of probabilities that the Landlord has failed to establish a claim for the \$80.00 in floor damage. Upon review of the Landlord's submitted condition inspection report, there is no notation of any floor damage and that there is no documentary evidence submitted of a handwritten note that the Tenant admits damage or claims responsibility for the claim. This portion of the Landlord's claim is dismissed.

The Landlord is also entitled to recovery of the \$50.00 filing fee.

I find that the Landlord has established a monetary claim for a total of \$1,025.00. I order that the Landlord retain the combined \$975.00 pet damage and security deposits in partial satisfaction of the claim and I grant a monetary order for \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

In offsetting the Landlord's monetary claim, the Tenant's monetary claim for the return of the pet damage and security deposits are dismissed.

Conclusion

The Tenant's Application is dismissed.

The Landlord is granted a monetary order for \$50.00.

The Landlord may retain the combined pet damage and security deposits.

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: November 22, 2013

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Residential Tenancy Branch

