



Policy and Procedure

Duty to minimize loss

This policy provides guidance to staff at the Employment Standards and Residential Tenancies Branch and the public in understanding our internal processes. This policy is not law. To the extent that this policy conflicts with any federal or territorial legislation, the legislation prevails. This policy may be amended or revised by the Director of Employment Standards and Residential Tenancies. If you have questions about the policy, please contact the Employment Standards and Residential Tenancies branch by phone at (867) 667-5944 or email at eso@yukon.ca or rto@yukon.ca.

Purpose

To explain the requirement for landlords or tenants seeking financial compensation to first prove that they did “whatever is reasonable to minimize the damage or loss”.

Background

If a landlord or tenant incurs costs because the other party did not comply with the *Residential Landlord and Tenant Act* (the “Act”), its regulations or the tenancy agreement, they may apply to the Residential Tenancies Office for financial compensation under section 9 of the Act. To be successful, the applicant must demonstrate:

- a) they experienced damage or a loss, including the total actual cost;
- b) the damage or loss resulted from their landlord’s or tenant’s breach; and
- c) they did whatever is reasonable to minimize the damage or loss.

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Landlords and tenants must take reasonable steps to minimize costs resulting from the other party’s breach. They cannot recover costs that could have been reasonably avoided.

The person seeking compensation must prove that they took steps to minimize the damage or loss. The adjudicator assigned to the file may require evidence such as receipts for repairs to verify this. If the person did not take reasonable steps to minimize the loss, the adjudicator may dismiss the claim or reduce the amount the person is entitled to.

The duty to minimize loss arises when the person became aware of the loss or damage.

Efforts to minimize loss must be reasonable. What is reasonable may vary depending on factors such as the location of the rental unit and the nature of the problem. A reasonable effort involves taking practical steps to minimize or avoid further damage or loss. The person is not required to do everything possible or incur excessive expense to mitigate the issue. However, failure to take appropriate steps to minimize the loss may restrict their ability to bring a claim for financial compensation.

Example 1: if a tenant finds their possessions are being damaged by a water leak, they should remove and dry those possessions as soon as possible to avoid further damage. They must also notify the landlord of the problem right away. If they are unable to reach the landlord, they may need to contact a plumber directly. Failing to take these kinds of steps could limit their ability to claim compensation.

Example 2: if a tenant leaves a fixed-term tenancy early or without notice, and the landlord claims compensation for loss of rent, the landlord must show reasonable efforts to re-rent the unit to a new tenant. For example, with evidence of advertisements and other attempts to find a new tenant. These steps can demonstrate the landlord's attempt to mitigate the loss.

Policy history

Date	Version number	Description
June 17, 2024	1	Policy approved