



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This matter dealt with an application by the Landlord for compensation for a loss of rental income as well as to recover the filing fee for this proceeding.

### Issues(s) to be Decided

1. Is the Landlord entitled to compensation for a loss of rental income and if so, how much?

### Background and Evidence

This tenancy started on September 1, 2008 and ended on November 30, 2008 when the Tenants moved out. Rent was \$900.00 per month. The Landlord claims that the Tenants signed a tenancy agreement for a one year fixed term but that they ended the tenancy early and he was unable to re-rent the rental unit until January 2009 at a rate of \$850.00 per month.

The Tenants claim that they were told by the Landlord's agent that the tenancy would be on a month to month basis and that they could end it whenever they wanted provided they gave her one month's written notice. The Tenants said that they brought some concerns about repairs to the Landlord's attention but he refused to fix them and told them they should probably move. Consequently, on September 30, 2009 the Tenants gave their one month's written notice that they would be ending the tenancy. On October 16, 2009, the Tenants advised the Landlord in writing that they would be moving out at the end of November 2009 instead.

### Analysis

The Parties' tenancy agreement states that it is for a fixed term but does not state that it is for a one year period. The tenancy agreement also does not indicate the date the tenancy started and states that the end date of the fixed term is July 30, 2008.

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Section 6(3) of the Act states (in part) that a term of a tenancy agreement is not enforceable if the term is not expressed in a manner that clearly communicates the rights and obligations under it. I find that clause 4 of the tenancy agreement that deals with the rental period states that it is to be a fixed term tenancy but it is unclear about the details of that tenancy. Consequently, I find that clause 4 of the tenancy agreement is not sufficiently clear to create a one year fixed term tenancy as the Landlord argued and I find that it is unenforceable. As a result, the tenancy is deemed to be a month to month tenancy.

Section 45(1) of the Act says that a Tenant of a month to month tenancy must give the Landlord one month's written notice that they are ending the tenancy. I find that the Tenants gave the Landlord one month's written notice they were ending the tenancy and as a result, I further find that there are no grounds to award the Landlord a loss of rental income for December 2009.

## Conclusion

The Landlord's application is dismissed. 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: December 02, 2009.

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Dispute Resolution Officer