



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNDC, FF

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order for compensation for loss under the *Act* and for the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issue(s) to be Decided**

Is the tenant entitled to compensation and the return of the filing fee?

### **Background and Evidence**

The tenancy started on May 15, 2009 for a fixed term which ended on December 31, 2011. The monthly rent was \$1,100.00 due on the first of each month. On November 08, 2011, the tenant served the landlord with a written notice to end the tenancy effective December 15, 2012.

The landlord advised the tenant that the fixed term was ending on December 31, 2011 and in any event a notice served on November 08 would effectively end the tenancy on December 31, 2012. The tenant requested that he pay rent up to December 15, 2011 and the landlord informed him that if a tenant was found for December 15, the tenant would not have to pay rent for the balance of December.

To that end, the tenant signed a note on November 14, granting the landlord access to the unit for showings, with verbal notification. The landlord stated that he showed the unit to some prospective tenants but the unit did not show well as there was mould around the windows and patio door. Both parties disagreed on the number of times the landlord notified the tenant by telephone prior to entering the rental unit.

The tenant moved out on December 01, 2011 and left behind three plastic bags of cleaning supplies. He returned on two occasions to clean the unit. The tenant finally returned on December 23, 2011 to finish cleaning and found that his cleaning supplies were missing and that there was evidence of some repair work being carried out. The tenant asked the landlord for his cleaning supplies and was informed that the supplies were moved to a storage unit. Since it was the end of the work day, the supplies were not available for pick up that evening. The tenant agreed that the bags were returned to him shortly after.

In order to find a new tenant, the landlord started cleaning the mould. The landlord stated that the appliances were also dirty and he had them replaced. On December 30, 2011 a move out inspection was conducted and the tenant received his deposit in full.

The tenant claims that the landlord took possession of the unit prior to December 31, 2012. However, the tenant agreed that he had access to the unit right up to the end. The landlord stated that he had the permission of the tenant to access the unit, the tenant had already moved out and in order to find a new tenant, he started some cleaning and repair work.

The tenant is claiming the return of rent for the latter half of December and the filing fee.

### **Analysis**

Section 45(2) of the *Residential Tenancy Act* states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) Is not earlier than one month after the date the landlord receives the notice
- (b) Is not earlier than the date specified in the agreement as the end of the tenancy
- (c) Is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

Based on the testimony of both parties, I find that the tenant did not give adequate notice to end the tenancy and therefore must pay rent for December. I also find that the tenant moved out on December 01 and gave the landlord permission to access the unit with verbal notice. The landlord made efforts to find a tenant for December 15, by showing the unit and subsequently carrying out removal of mould to improve the chances of finding a tenant. The landlord may have moved the tenant's supplies to storage, prior to December 31, but they were returned to the tenant at his request. I find that the landlord was in compliance with the *Act*, and accordingly the tenant has not proven his claim for compensation and is not entitled to the recovery of the filing fee.

### **Conclusion**

The tenant'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: March 28, 2012.

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Residential Tenancy Branch