

## **DECISION**

Dispute Codes      MNR, FF

### **Introduction**

This is an application filed by the Landlord for a monetary order for unpaid rent/loss of rental income for failure to provide written notice to vacate the rental and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The Landlord has acknowledged receiving the Tenant's evidence package. The Tenant states that she does not have the Landlord's evidence package, but that she has not checked her mail since April 5, 2012. The Landlord's evidence consist of a copy of the tenancy agreement, a receipt for the security deposit and a receipt for advertising costs. The Landlord indicated at the beginning of the hearing that he is amending his monetary claim and is now only seeking unpaid rent/loss of rental income of \$800.00 (December and January rent of \$400.00 each). The Tenant has acknowledged her understanding of the reduced monetary claim. I find that the evidence submitted by the Landlord is admissible as these are items that the Tenant has acknowledged having copies of and she states that she is not concerned with their content. As such, I find that both parties have been properly served with the notice of hearing and evidence packages under the Act.

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

Is the Landlord entitled to a monetary order for unpaid rent?

### **Background and Evidence**

This tenancy began on November 1, 2010 and was at the end of tenancy on a month to month basis and the monthly rent was \$400.00 payable on the 1<sup>st</sup> of each month as shown in the copy of the submitted signed tenancy agreement.

The Landlord states that the Tenant failed to give proper notice to end/vacate the rental. The Tenant has confirmed giving the Landlord short notice to end the tenancy on November 28, 2011. The Landlord disputes this. The Tenant is unable to provide any evidence of the date her notice to vacate the rental was given to the Landlord. The Landlord states that the Tenant vacated the rental on December 3, 2011. The Landlord

seeks a monetary order for unpaid rent for December 2011 and January 2012. The Landlord stated that he re-advertised the rental and has provided a receipt showing that an ad ran from December 7, 2011 to December 9, 2011. The Landlord stated that he was unable to re-rent the unit for December or January and that the property was sold at the end of December 2011.

### Analysis

It is undisputed based upon the Tenant's direct testimony that proper notice to end the tenancy was not given to the Landlord. Section 45 (1) of the Residential Tenancy Act states that the Tenant must give atleast one months notice to end the tenancy to the Landlord. On this basis, I find that the Landlord is entitled to recovery of \$400.00 for December 2011 rent. Although the Landlord has shown that he tried to mitigate the loss of rent for January, it is clear based upon the Landlord's direct testimony that he has sold the property sometime at the end of December 2011 and that he suffered no loss of rental income. On this basis, the Landlord has failed to establish a claim for the second month of rent. This portion of the Landlord's monetary claim is dismissed. The Landlord is entitled to recovery of the \$50.00 filing fee. I grant the Landlord a monetary order under section 67 for the balance due of \$450.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Landlord is granted a monetary order for \$450.00.

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: April 24, 2012.

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Residential Tenancy Branch