



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that on May 27, they signed a tenancy agreement which provided that the tenancy would begin on June 1 at a rental rate of \$950.00 per month and that the tenant paid a \$475.00 security deposit. The parties further agreed that on May 28, the tenant texted the landlord and advised that he would not be renting the unit after all.

The tenant testified that he changed his mind about renting the unit because after he had signed the tenancy agreement, the landlord told him that the previous tenant was vacating because her ID had been stolen and she was worried that “someone was coming after her.” The tenant testified that because he works nights and his teenage daughter would be alone while he was at work, he determined that it was not safe for him to move into the unit.

The landlord acknowledged that he had told the tenant why the previous occupant was leaving, but testified that he shared this before the tenancy agreement was signed. The landlord testified that he re-rented the unit for a term commencing on July 1 but that since the unit was empty, he permitted the new tenants to move in early. The tenant claimed that he saw that the new tenants had occupied the unit as of June 10 but the landlord insisted that they had not moved in quite that early. The landlord denied having accepted any rent from the new tenants for the month of June.

### Analysis

Although the tenant had not yet moved into the rental unit, I find that he was contractually bound to the landlord and subject to the legislation governing tenancies. The Act provides that tenants must provide one month's written notice in order to end a month-to-month tenancy with the exception that if the landlord has breached a material term of the agreement, the tenant may advise the landlord of the breach in writing, give him opportunity to rectify the breach and end the tenancy on short notice if the landlord fails to do so. I am unable to find that the landlord breached a material term of the tenancy. There is insufficient evidence to show that the fact of the previous occupant having lost her ID post any threat whatsoever to the tenant or his family.

The landlord is entitled to recover income lost as a result of the tenant's breach. However, the landlord's new tenants are not entitled to benefit from the breach. I find that the new tenants took occupancy of the rental unit at some time during June and I find that it would be unfair to make the tenant liable for paying rent for any period of time in which they occupied the rental unit.

As I am uncertain about the date on which the new tenants began their occupancy, I find that awarding the landlord the security deposit will adequately compensate him for any loss of income suffered. The claim for lost income for the remainder of the month of June is dismissed.

I dismiss the claim for recovery of the filing fee as the amount is relatively insignificant and I believe the security deposit provides the landlord with adequate compensation.

### Conclusion

I order the landlord to retain the \$475.00 security deposit and I dismiss the balance of the claim.

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: August 17, 2012

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Residential Tenancy Branch