



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOLLYBURN PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** MNR, MNSD, MNDC, FF

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income and for the recovery of the filing fee. The landlord also applied to retain the security in partial settlement of the claim.

The landlord testified that she served the tenant with the notice of hearing and evidence package by registered mail on May 14, 2014, to the forwarding address provided by the tenant. The landlord filed a copy of the tracking slip. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to a monetary order for loss of income and for the recovery of the filing fee? Is the landlord entitled to retain the deposit?

### **Background and Evidence**

The landlord testified that the tenancy started on January 01, 2013. The monthly rent at the time the tenancy ended was \$1,119.00.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$550.00.

The landlord testified that on April 06, 2014, the tenant provided notice to end the tenancy, effective May 31, 2014. The tenant moved out prior to the end date, on April 30, 2014. A move out inspection was conducted on May 04, 2014 and the landlord filed a copy of the move out inspection report. In the report the tenant stated that he was told by the landlord that a new tenant would be moving into the rental unit on May 01, 2014 and therefore he moved out on April 30, 2014. The report is signed by the landlord's agent.

The agent who attended the hearing stated that the person who signed the report on behalf of the landlord, no longer works for the landlord and therefore she was unable to comment on the content of the report. However, the agent added that recognized the name of the new occupant that the tenant referred to in the move out inspection report. The landlord is claiming loss of income for the month of May 2014, for the recovery of the filing fee and to retain the deposit.

### **Analysis**

Section 45 of the *Residential Tenancy Act*, states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement. Based on the undisputed testimony and documentary evidence of the landlord, I find that the tenant gave adequate notice on April 06, 2014 with an effective date of May 31, 2014.

However, the tenant moved out on April 30 which is prior to the effective date of the notice and explained the reason for doing so in the move out inspection report. The reason was that the landlord had requested him to move out early as a new tenant was found for May 01, 2014. The tenant also noted down the name of the new tenant. The report is signed by the agent of the landlord who conducted the move out inspection.

Based on the above, I find the landlord requested the tenant to move out early and therefore is not entitled to any loss of income the landlord may have suffered. Since the landlord has not proven her case, she must bear the cost of filing her application. The landlord currently has \$550.00 in her possession as a security deposit. I order the landlord to return this amount to the tenant within 15 days of receipt of this decision.

### **Conclusion**

The landlord's application is dismissed. The landlord must return \$550.00 to the tenant within 15 days if receipt of this decision.

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: September 16, 2014

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Residential Tenancy Branch

