



# 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 a landlord's application for a Monetary Order for loss of rent for the month of June 2015. The tenants did not appear at the hearing. The landlord submitted that a hearing package was sent to each tenant at their forwarding address by registered mail on June 11, 2015. The landlord provided the registered mail receipts, including tracking numbers, as proof of service. A search of the registered mail tracking numbers showed that the hearing packages were successfully delivered on June 29, 2015. I was satisfied the tenants have been notified of this proceeding and I continued to hear from the landlord without the tenants present.

### Issue(s) to be Decided

Is the landlord entitled to recovery the amount claimed for loss of rent?

### Background and Evidence

The tenancy commenced June 1, 2014 for a fixed term set to expire June 1, 2015. The tenants were required to pay rent of \$1,200.0 on the 1<sup>st</sup> day of every month and paid a \$600.00 security deposit. The tenancy agreement provides that at the end of the fixed term the tenancy would continue on a month to month basis or for another fixed term. The landlord stated that another fixed term was not entered into and the tenancy was set to continue on a month to month basis.

On May 20, 2015 the tenants sent a text message to the landlord to indicate they would be vacating the rental unit effective May 31, 2015. The landlord responded by informing the tenants their notice was insufficient in that they were required to give at least one month of written notice. On May 25, 2015 the tenants faxed a written notice to end tenancy to the landlord with a stated effective date of May 31, 2015.

The landlord submitted that they advertised the unit on line immediately and showed the unit several times in late May 2015; however, the next tenancy did not commence until July 1, 2015 and the landlord suffered a loss of rent for the month of June 2015.

The landlords seek to recover loss of rent of \$1,200.00 from the tenants for the month of June 2015.

The landlord submitted that the tenants authorized the landlord to retain the security deposit, in writing, on the move-out inspection report as compensation for cleaning and damage to the property.

Documentary evidence provided by the landlord included copies of: the tenancy agreement; the condition inspection reports; advertisement of the rental unit; text messages exchanged between the parties on May 20 and 21, 2015; the landlord's letter to the tenants dated May 24, 2015; and, the tenant's notice to end tenancy received on May 25, 2015.

### Analysis

The tenancy agreement executed by the parties in this case stipulates that at the end of the fixed term the tenancy would continue on a month to month basis or another fixed term. I heard that another fixed term was not entered into. Thus, I find that pursuant to the tenancy agreement the tenancy was set to continue on a month to month basis upon the expiration of the original fixed term. I find this consistent with section 44(3) of the Act which provides that unless the tenancy agreement requires the tenant to vacate the rental unit at the end of a fixed term, the landlord and tenant are deemed to have renewed the tenancy on a month to month basis.

Since the tenancy was set to continue on a month to month basis at the end of the fixed term, I find the tenants were obligated to end the tenancy in a manner that complies with section 45 of the Act which is to give the landlord one full month of written notice. In this case, the tenants gave written notice on May 25, 2015 and the earliest the notice could have been effective is June 30, 2015 pursuant to the requirements of section 45 of the Act. Since the tenants ended the tenancy without sufficient notice to the landlord, I find the tenants violated the Act.

Upon consideration of the landlord's evidence, including the landlord's undisputed testimony, the correspondence between the parties, and the posted advertisement, I am satisfied the landlords put the tenants on notice as to their continued obligation under the tenancy agreement and made reasonable efforts to re-rent the unit but that despite their efforts the unit was vacant for the month of June 2015. Accordingly, I find the landlord met its obligation to mitigate losses.

In light of the above, I find the tenants are responsible for the loss of rent for the month of June 2015 in the amount of \$1,200.00 due to their failure to give sufficient notice to the landlord and I grant the landlord's request to recover this loss from the tenants.

Since the landlords were successful in this application, I further award the landlord recovery of the \$50.00 the landlord paid for this application.

Provided to the landlords with this decision is a Monetary Order in the total amount of \$1,250.00 for the landlords to serve and enforce upon the tenants as necessary.

### Conclusion

The landlords have been provided a Monetary Order in the total sum of \$1,250.00 to serve and enforce upon the tenants.

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: November 12, 2015

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Residential Tenancy Branch

