



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, O

### Introduction

This hearing dealt with the landlord's application under the *Residential Tenancy Act* ("the *Act*") for a monetary order for unpaid rent pursuant to section 67. The landlord claims that the tenant ended the tenancy early without notice or agreement.

Both parties attended the hearing and were given an opportunity to make submissions. The tenant confirmed receipt of the landlord's Application for Dispute Resolution package and materials for this hearing.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for loss as a result of this tenancy?

### Background and Evidence

This tenancy began on August 1, 2012 as a one year fixed term with a rental amount of \$800.00. After one year, the tenancy continued on a month to month basis with rent payable on the first of each month. Both parties agree that the tenant vacated the rental unit on May 31, 2015. The landlord continues to hold the tenant's \$400.00 security deposit paid at the outset of this tenancy.

The landlord claims that the tenant did not provide notice to end the tenancy. The tenant claims that this was a "friendly agreement" and that she advised the landlord verbally that she intended to move. The landlord testified that he received written notice to end the tenancy from the tenant on May 11, 2015 (20 days before the tenant vacated the residence). The landlord testified that he placed advertisements on various online sites and community postings as of May 11, 2015 but that he was unable to re-rent the unit until July 1, 2015.

The tenant testified that she provided verbal notice to the landlord on or about the end of April 2015. The tenant testified that she was not told by the landlord that she needed to give written notice and that, as a friend, she thought he would have advised her if he required written notice. She testified that when she provided verbal notice in April, she did not provide a move-out date or state clearly that she was in fact moving out but she notified the landlord that she was getting married. The tenant testified that she thought this was sufficient information for the landlord. When the tenant did provide written notice on May 11, 2015, she stated that she would vacate the rental unit on June 5, 2015. The landlord testified that when he advertised the rental unit, he wasn't aware that the tenant would be vacating the unit before June 5, 2015 and worded his advertising accordingly.

### Analysis

The evidence shows that this tenancy had converted from a fixed term tenancy to a month to month (or "periodic") tenancy. When a tenancy comes to an end, the party ending the tenancy must meet certain obligations under the *Act*.

Section 45 of the *Act* addresses a tenant's notice to end tenancy.

**45** (1) A tenant may end a periodic 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, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

...

(4) A notice to end a tenancy given under this section must comply with section 52 [*form and content of notice to end tenancy*].

I find that the tenant did not provide notice one month prior to the end of tenancy effective date and that the tenant did not provide notice before the day that the rent is payable. The tenant did not give notice in accordance with the provisions of section 52 and therefore, while the tenant was not malicious in her actions, her lack of awareness of the requirements in her provision of notice to end tenancy does not excuse her from them.

I find that the tenant did not provide notice in accordance with the *Act*. Therefore, the landlord is justified in seeking an amount of compensation for lack of notice. The testimony of both parties points to an unclear and unarticulated end date placing the landlord in a position where he was not able to re-rent the unit immediately or have certainty of the date that the unit would be available to re-rent.

The landlord is required to make efforts to mitigate any loss and I find that he did so by advertising and showing the rental unit as soon as he became aware of the end date of the tenancy. I accept his evidence that the June 5, 2015 move-out date provided by the tenant presented an additional obstacle.

As the tenant failed to give sufficient notice to end the tenancy and as the landlord has provided undisputed sworn testimony that he was unable to re-rent the unit until July 1, 2015, I find the landlord is entitled to a monetary order including \$800.00 for the loss of rent in the month of June 2015.

### Conclusion

I grant the landlord a monetary order as follows,

Item	Amount
Loss of Rent (June 2015)	\$800.00
Less Security Deposit	-400.00
<b>Total Monetary Order</b>	<b>\$400.00</b>

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 1, 2016

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Residential Tenancy Branch

