



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, FF

### Introduction

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. A Monetary Order in the sum of \$1500 for the failure to give sufficient notice.
- b. An Order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenants by mailing, by registered mail to where the Tenants reside on March 9, 2016. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to A Monetary Order and if so how much?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on March 1, 2015 and continue on a month to month term. The rent was \$1500 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$750 at the start of the tenancy.

On January 31, 2016 the tenant SM gave the landlord written notice that she was vacating the rental unit on February 29, 2016. The tenant SM also texted the landlord stating she was giving the landlord the one month notice and she would be leaving at the end of February.

On February 1, 2016 the landlord texted SM acknowledging she had received the notice and inquiring what the co-tenant NB was planning.

SM responded saying that she was not sure what NB was planning but that NB would let her know.

There is a large number of texts between the landlord and NB. At one stage NB stated she was intending to stay until the end of March. However, the landlord and NB never entered into a tenancy agreement. The landlord returned the rent cheque signed by SM to SM which was for March. NB failed to provide the landlord with a cheque for the rent for March. On February 22, 2016 NB told the landlord that she was moving out at the end of February. The tenants vacated at the end of February. The landlord returned their security deposit. The landlord was not able to find a tenant for March.

Policy Guideline 13 includes the following:

“Where co-tenants have entered into a periodic tenancy, and one tenant moves out, that tenant may be held responsible for any debt or damages relating to the tenancy until the tenancy agreement has been legally ended. **If the tenant who moves out gives proper notice to end the tenancy the tenancy agreement will end on the effective date of that notice, and all tenants must move out, even where the notice has not been signed by all tenants. (my emphasis)** If any of the tenants remain in the premises and continue to pay rent after the date the notice took effect, the parties may be found to have entered into a new tenancy agreement. The tenant who moved out is not responsible for carrying out this new agreement.”

#### Analysis - Monetary Order and Cost of Filing fee

After carefully considering all of the evidence I determined the landlord has failed to establish a claim against the Tenants for the following reasons.

- I determined that the written Notice given by SM ended the tenancy for both co-tenants at the end of February.
- While there may be technical problems with the Notice and when it was served both parties acted on the basis that the Notice was sufficient to end the tenancy

for SM. The landlord returned her cheque and looked to NB for the rent for March.

- The landlord appeared to act on the basis of a misunderstanding of the law. She acted as if the notice given by SM ended the tenancy for SM only. The Policy Guideline provides that a notice given by one co-tenant ends the tenancy for all tenants even though the other co-tenant may not have given it.
- While the conduct of NB may have misled the landlord, the landlord and NB failed to reach a binding tenancy agreement that would create a new tenancy.

As a result I ordered that the application of the landlord be dismissed without leave to re-apply.

Dated: September 15, 2016

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Residential Tenancy Branch