



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AL STOBBER CONSTRUCTION  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT, FF

### Introduction

On January 25, 2021, the Tenant applied for dispute resolution under the *Residential Tenancy Act* (“the Act”) seeking money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement.

The matter was scheduled for a teleconference hearing. The Tenant and Landlord were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing. The parties were informed that recording the hearing is not permitted.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

- Is the Tenant entitled to money owed or compensation for damage or loss?

### Background and Evidence

The parties testified that the tenancy began on in November 2017, as a one-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$1,625.00 was due to be paid to the Landlord by the first day of each month. A security deposit of \$800.00 was paid by the Tenant to the Landlord.

### Money Owed or Compensation for Damage or Loss

The Tenant is seeking \$812.50 which is half a month rent.

On December 11, 2020 the Tenant sent written notice to the Landlord that he is ending the tenancy. The Tenant asked if the tenancy could end mid month on January 15, 2021. The Tenant moved out of the rental unit on January 13, 2021. The Tenant paid the full rent of \$1,625.00 due under the tenancy agreement for January 2021.

The Tenant suggested that the Landlord was unreasonable by not permitting the tenancy to end on January 15<sup>th</sup> and that the Landlord did not make an effort to re-rent the unit to a new Tenant.

In reply, the Landlord stated that they explained to the requirements of giving a written notice to end the tenancy. The Landlord stated that the written notice to end tenancy was late notice.

The Landlord stated that they were not able to re-rent the unit to a new tenant until February 2021.

### Analysis

When a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove the claim, the Applicant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act, Regulation, or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss; and,
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Section 45 (1) of the Act provides 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, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Based on the above, the testimony and evidence of the parties, and on a balance of probabilities, I find as follows:

I find that the tenancy was on a month to month basis and is considered a periodic tenancy. I find that the earliest date the tenancy could have legally ended based on the Tenant's notice was January 31, 2021.

In addition, since the tenancy was periodic, the Landlord was under no legal obligation to rent out the unit prior to January 31, 2021, the earliest date the tenancy could have legally ended. I find that the Landlord did not receive any rent from a new tenant for January 2021 and is therefore entitled to keep the full January 2021 rent.

I find that the Landlord did not breach the Act, Regulation, or tenancy agreement, and the Landlord is not obligated to compensate the Tenant.

The Tenant's application for money owed or compensation for damage or a loss is dismissed in its entirety without leave to reapply.

### Conclusion

The Tenant's application for money owed or compensation for damage or loss is dismissed in its entirety. I find that the earliest date the tenancy could have legally ended based on the Tenant's notice was January 31, 2021.

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: May 28, 2021

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Residential Tenancy Branch