



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            MNR FF

### Introduction

This hearing dealt with the landlord's application for monetary compensation. The landlord and the tenant participated in the teleconference hearing.

At the outset of the hearing, the tenant confirmed that she had received the other party's application and evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on June 1, 2013 as a fixed-term tenancy to end on May 31, 2014. The copy of the tenancy agreement submitted by the landlord indicates by a ticked box that at the end of the fixed term the tenancy would revert to a month-to-month tenancy, unless the tenant gave written notice to end the tenancy at least one clear month before the end of the term. However, both the landlord and the tenant initialled beside the option indicating that at the end of the fixed term the tenancy would end and the tenant must vacate. The tenancy ended on May 31, 2014.

The landlord's position was that the tenancy was to revert to a month-to-month tenancy at the end of the fixed term, and the tenant would be required to give notice to vacate. The landlord did not have testimony or other evidence to establish that this was the landlord's understanding of the agreement at the time of signing. The landlord stated that the tenant gave late notice to vacate. The landlord first stated that they received the notice to vacate on May 1, 2014. Later in the hearing the landlord stated that although they were working in the office on the weekdays, they did not receive the notice on that week [April 27 through May 3, 2014]. The landlord did not submit a copy of the tenant's written notice in their evidence. The landlord stated that they took

immediate steps to re-rent the unit and showed it several times, but they were unable to re-rent it for June 2014. The landlord has claimed loss of revenue for June 2014.

The tenant responded that when she signed the tenancy agreement her understanding was that she must move out at the end of the fixed term, and she would not be required to give notice to vacate. The tenant stated that the landlord never gave the tenant a copy of the tenancy agreement. The tenant stated that just as a precaution she dropped off her written notice to vacate in the landlord's office mail slot on the evening of April 28, 2014.

### Analysis

I find that the landlord is not entitled to lost revenue as claimed.

The landlord did not provide sufficient evidence of the date they received the tenant's written notice to vacate. Moreover, I find that the tenancy agreement is unclear regarding whether the fixed term was to revert to a month-to-month tenancy. I accept the tenant's testimony that her understanding of the tenancy agreement was that she was required to vacate at the end of the fixed term. The landlord did not provide sufficient evidence to refute the tenant's understanding of the agreement.

When a term of an agreement is unclear, it is not enforceable. I therefore find that the landlord cannot rely on the ticked box on the tenancy agreement indicating that the tenancy would revert to month-to-month at the end of the fixed term.

### Conclusion

The landlord's application is dismissed.

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: October 31, 2014

