

Adjudication Digest No 12/2012

Don't worry no-one will notice.....

- **The Adjudication Digest takes a recent decision by a TDS Adjudicator and sets out the reasoning behind it. We hope that you will find these digests informative in understanding how we reach our adjudication decisions.**
- **This document is for guidance only – it is not intended to guarantee when an award will be made.**
- **Each dispute is different and the actual award made will be based on our interpretation of the specific evidence presented to us.**

The Adjudication Digest takes a recent decision by a TDS Adjudicator and sets out the reasoning behind the decision. The aim of these Digest reports is to help tenants, landlords and agents better understand how we make our adjudication decisions. The names of the landlords and tenants involved have been removed and this is only a brief summary of the dispute.

Amount of deposit in dispute: £ 655.00

Dispute initiated by: Landlord

Award made:

Tenant	£ 0.00
Landlord	£ 655.00
Agent	£ 0.00

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In this month's case the landlord claimed a month's unpaid rent because the tenant failed to give adequate notice to terminate the tenancy agreement. The agent explained that they received written notice from the tenant to terminate the tenancy on 5 September 2012, and that the tenancy period ran from the 1st to the 30th/31st of a month because the monthly rent was payable on the 1st. The agent claims that notice to terminate the tenancy must therefore expire at the end of a calendar month, meaning that the earliest the tenant's notice could expire was 31 October 2012. The agent says that the property was re-let on 1 November 2012.

The tenant says that he gave one month's notice in accordance with the tenancy agreement to expire on 4 October 2012. The tenant accepted that he is liable for four days rent to over the period 1 to 4 October, but would pay no more.

The tenancy agreement was signed for a fixed period ending on 30 September 2012. The evidence showed that the tenant gave one month's written notice on 5 September 2012 to end the tenancy agreement on 4 October 2012, four days after the tenancy's expiry.

The tenancy agreement set out that in the event the tenant wishes to leave after the end of a fixed term, the tenant is obliged to *"give one months written notice of the intention to vacate the premises expiring at the end of a complete rental month. Payments are made calendar monthly hence a rental month equals a calendar month. (e.g. giving notice during January for the 28th Feb, giving notice during Feb for the 31st March, giving notice during November for the 31st Dec etc.) sic."*

The rent statement provided showed that rent was paid on the 1st of each month in accordance with the provisions of the tenancy agreement.

The adjudicator took the view that the tenancy agreement set out that notice served to terminate the tenancy after the end of the fixed term on 30 September 2012, should expire at the end of a calendar month. In this case, the tenant's notice of 5 September 2012 could therefore not expire any earlier than 31 October 2012. The adjudicator was satisfied on this basis that the tenant remained liable for the full rent due for the month of October 2012.

So what are the key points here?

- Make sure notice clauses in tenancy agreements are clearly worded – what seems logical or obvious to the writer may not be to a tenant.
- Disputes of this nature could be avoided by writing to tenants before the fixed term tenancy expires, in order to remind them of the notice requirements and to avoid any misunderstandings.

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Revised December 2012

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