

**Landlord Law Report**  
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Notice to Vacate on First Day of Month Permitted Under Month-to-Month Lease

Maryland: A landlord cannot hold his tenants liable for a month's rent because they gave a proper 30-day notice to vacate although it was in the month they planned to vacate.

A landlord leased a house to his tenants using a pre-printed lease agreement published by a realty association. The lease was used commonly in the area. When the one-year lease term ended in 2001, the tenants remained as month-to-month tenants pursuant to an express agreement with the landlord and a rent increase.

***He was told to return the \$2,200 deposit and he could not charge them for May's rent or a \$110 late fee or retain the charges from their security deposit.***

On April 1, 2002, ten months into this agreement, the tenants told the landlord they would terminate the lease and move out on April 30<sup>th</sup>. The landlord said the notice was too late for the tenants to avoid rent liability for May. The tenants ignored the landlord's statement and moved out before April 30, 2002, as intended. The landlord did not return their security deposit so they filed a complaint with the county landlord and tenant commission.

The commission ruled the tenants gave a proper 30-day written termination notice to their landlord and he was not entitled to keep their deposit. He was told to return the \$2,200 deposit and he could not charge them for May's rent or a \$110 late fee or retain the charges from their security deposit.

The landlord appealed to the circuit court, which affirmed the commission's decision, so he appealed again to the Court of Special Appeals. The appellate court affirms the commission's decision as well.

Under common law, a month-to-month tenancy may be terminated by a 30-day notice by either the landlord or the tenant. Under state law, the period for giving the termination notice may be superseded by an express agreement between the landlord and tenant. The lease between the landlord and the tenants in this case remained in effect even after the initial term expired. It contained a holdover provision stating it would continue as a month-to-month tenancy until either party terminated it with a 30-day written notice prior to the rent due date.

The lease defined the due date as the first day of each month the tenants remained in possession of the property. The landlord argued on appeal the 30-day notice must be given prior to the due date and not on the date as in this case.

The appellate court rejects the landlord's argument by concluding the applicable Rent Due Date in this case is May 1, 2002, not April 1, 2002.

**LESSON: A landlord and tenant can agree to a different notice-termination time period, but in most states it is 30 days for a month-to-month tenancy. Here, the landlord tried to argue the notice could not be given on the first day of the last month in which the tenants wanted to remain as tenants. The commission and courts agreed, however, it was proper to give the notice on that day since it was more than 30 days prior to the next rent due date. Arthur Hyder, et al. v Montgomery County, Maryland, et al. 2004 MD App. LEXIS 204.**

*Landlord Law Report is written by a practicing landlord-tenant attorney and contains quick-reading highlights of recent federal and state court decisions on fair housing, premises liability, rent control, lease enforcement, drug use, eviction, handicapped accessibility, building security, lead paint/asbestos, and Section 8 tenants, plus summaries of HUD rulings. Each issue is filled with advice on how multifamily property owners and managers can be better prepared to protect themselves from expensive and time-consuming litigation.*

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