

STATE OF VERMONT

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
No. 22-CV-614

EDWARD AND MARY CORRIGAN,
Plaintiffs,

v.

CARISSA HEDGES et al.,
Defendants.

RECONSIDERATION OF DENIAL OF DEFAULT JUDGMENT

This is a residential *no-cause* eviction case. Tenants are in default. On April 4, 2022, the court denied Landlords' motion for default judgment, indicating that Tenants appeared to have not been given the full 60-days notice to which they were entitled pursuant to 9 V.S.A. § 4467(e). The court gave Landlords leave "to explain in writing why the complaint should not be dismissed for this reason." Landlords responded by arguing that Tenants were entitled to 30-days notice only and had received it. Thus, they argue, there was no notice defect.

Subsection 4467(e) provides in relevant part as follows:

If there is a written rental agreement, the notice to terminate for no cause shall be at least 30 days before the end or expiration of the stated term of the rental agreement if the tenancy has continued for two years or less. The notice to terminate for no cause shall be at least 60 days before the end or expiration of the term of the rental agreement if the tenancy has continued for more than two years.

In this case, the lease ran for an initial 11 1/2 month term (12/16/19 – 11/30/20). After that, Tenants held over and the lease continued, according to its terms, on a month-to-month basis. Landlords sent a written notice indicating a termination date of December 31, 2021, for no cause. It was actually received by Tenants on November 18, 2021 (and was subsequently served by sheriff on November 23, 2021).

The question is how to measure the 2-year tenancy period so as to determine whether 30-days or 60-days notice is required. On these facts, measuring from the inception of the tenancy to the date of actual notice of termination is less than 2 years, requiring only 30-days notice. Measuring from inception to the date of termination of tenancy is more than 2 years, requiring 60-days notice. The court initially measured to the termination date.

Upon further reflection, the court agrees with Landlords that the proper endpoint for measuring the length of the tenancy for § 4467(e) purposes is the date of actual notice of the termination, less than two years in this case, rather than the termination itself. The purpose of the statute is to define the amount of notice required. It requires 30-days notice during the first two years of occupancy and 60-days notice for longer tenancies. The date of actual notice is when the notice period starts to run and thus would seem to be the date on which to measure whether the tenancy “has continued” (present tense) for two years. “Has continued” is the statutory language. The noticed termination date, by contrast, would be the day by which the tenancy “will have continued” (future perfect) for two years. The termination date is always in the future in relation to the notice date and any other date by which one might measure the two-year period. Landlords satisfied § 4467(e) in this case by providing at least 30-days notice to Tenants.

Upon reconsideration, the court rescinds its April 4 entry and now grants Landlords’ motion for default judgment.

SO ORDERED this 27th day of April, 2022.



Robert A. Mello
Superior Judge