

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

## **DECISION**

Dispute Codes: MNR OPR MNSD FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord gave sworn evidence that the Notice to end Tenancy dated November 2, 2013 was served by posting it on the door and the Application for Dispute Resolution by personal service to a boyfriend at the tenant's door. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

### **Issue(s) to be Decided:**

The tenant was issued a Notice to End Tenancy dated November 2, 2013 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

The tenant did not attend and provided no documents to dispute. The landlord was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises in November, 2010, a security deposit of \$487.50 was paid and rent is currently \$1010 a month. It is undisputed that the tenant owes \$515 rent for October 2013 and \$1010 for each of November, December 2013 and January 2014. The tenant made partial payments of \$140 Nov. 8, \$390 Nov. 22, \$390+ \$300 Dec. 20 and \$150 Dec. 23<sup>rd</sup> and was given receipts for "use and occupancy only" as the landlord was accepting the rent for the use of the unit but not reinstating the tenancy. The landlord requests an Order of Possession and a monetary order for \$2175 for rent arrears plus \$75 for late fees (3 months), to retain the security deposit to offset the amount owing and recover the filing fee.

In evidence is the Notice to End Tenancy, the lease, a witness statement re. service and a Notice of Rent Increase. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service.

I find that there are rental arrears in the amount of \$2175 representing rental arrears from October 2013 to January 31, 2014 and \$75 owing for late fees for three months. I find the landlord entitled to retain the security deposit to offset the amount owing.

### **Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. Both orders are enclosed. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application.

Calculation of Monetary Award:

Rent arrears	2175.00
Late fees Nov., Dec., Jan.	75.00
Filing fee	50.00
Less security deposit (no interest 2010-14)	-487.50
Total Monetary Order to landlord	1812.50

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: January 08, 2014

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Residential Tenancy Branch