



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LI-CAR MANAGEMENT GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR MNSD OPR OPC 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 Sections 46 for rental arrears;
- b) An Order of Possession pursuant to sections 46 or 47 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 with a witness of service by posting the Notice to End Tenancy on the door and of personal service on one tenant of the Application for Dispute Resolution and on the other by registered mail. It was verified online that the registered mail was not claimed although notices were left from November 22, 2013 to December. I find that one tenant was served with the documents according to sections 88 and 89 of the Act and the other is deemed to be served.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is unpaid rent and they are entitled to a monetary order for rental arrears, an Order of Possession and to recover the filing fee?

Background and Evidence:

The tenants did not attend although one was personally served with the Application/Notice of Hearing and the other is deemed to be served. The landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced in 2009 and the tenants sharing the unit have changed from time to time, a security deposit of \$450 was paid on November 2009 and rent is currently \$995 a month after two legal increases.

The landlord said the tenant owed \$482.50 rent for November 2013 and \$995 for each of December and January 2014. However, they paid \$500 in November and \$995 in

each of December and January and were given a receipt “for use and occupancy only” as the landlord did not want to reinstate the tenancy. There is currently \$477.50 outstanding and the landlord requests a monetary order and an Order of Possession.

Another Notice to End Tenancy for repeated late payment of rent was served in October but the hearing proceeded only on the ten day (most current) Notice and no evidence was taken on the repeated late payment of rent.

In evidence are copies of two Notices to End Tenancy, proof of service and a tenancy agreement. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

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 as requested.

Monetary Order

I find that there are rental arrears in the amount of \$477.50 representing rental arrears from November 2013 to January 31, 2014 and the landlord is entitled to a monetary order for this amount.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. 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	477.50
Filing fee	50.00
Less security deposit (no interest 2009-14)	-450.00
Total monetary order to landlord	77.50

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 14, 2014

Residential Tenancy Branch

