



# 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 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:**

Both parties attended and the tenant agreed the Notice to end Tenancy dated May 2, 2014 was posted on the door and the Application for Dispute Resolution was served by registered mail. I find that the tenant was legally 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 May 2, 2014 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and loss and filing fee?

### **Background and Evidence:**

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced on March 3, 2014, a security deposit of \$300 was paid and rent is currently \$600 a month. It is undisputed that the tenant owes \$600 for May 2014 but he said the landlord had told him to rip up the Notice to End Tenancy as they would not pursue it. The landlord said the tenant may be confused because a Notice was served in April 2014, he paid the rent within the 5 days allowed in the Act so she told him the Notice was no longer of any effect; she denies telling him this about the May Notice as she said the rent has still not been paid.

The landlord is also claiming rental loss for June and July for they said the tenant's goods are still in the property. However the tenant said the locks were changed and he was denied access. The landlord agreed that they changed the locks on June 13, 2013 after the site manager did a condition inspection report; they said it was obvious the tenant was no longer living there but they have not re-rented for his goods are still on the premises. The tenant contended the landlord had changed the locks earlier in June, about June 3, 2014 and some of his friends would know this; however they were not present to testify.

The tenant said he has some health issues but the parties agreed that the site manager would give him access to the unit on Wednesday July 16 between the hours of noon and 5 p.m. and the tenant was to be gone from the premises by 5 p.m.

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 and includes the order that the tenant removed all his belongings.

#### Monetary Order

I find that there are rental arrears in the amount of \$600 representing rental arrears for May 2014. Although the landlord claims rental loss for June and July 2014, I find the landlord in changing the locks on June 13, 2013 and denying the tenant access effectively used self help to take possession of the unit contrary to section 31 of the Act. Therefore, I find the landlord entitled only to rental loss of 13 days for June 2014 totalling \$260 ( $\$600/30 \times 13$  days) when the tenant was still in possession. Although the tenant contended the lock was changed earlier in June, I find insufficient evidence to support his allegation; I prefer the evidence of the landlord on this point as it is supported by the fact it was the day the site manager did and signed a condition inspection report.

**Conclusion:**

Pursuant to the agreement between the landlord and tenant:

**I HEREBY ORDER THAT:**

- 1. The landlord grant access to the unit by the tenant on Wednesday, July 16, 2014 between the hours of 12 noon to 5 p.m. for the purpose of removing his goods.**
- 2. The tenant to remove all his belongings or give written authority to the landlord to dispose of them by 5 p.m. on Wednesday July 16, 2014 and he is to vacate the premises entirely by that time.**

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:

May 2014 rent arrears	600.00
June 1-13 rental loss	260.00
Filing fee	50.00
Less security deposit (no interest 2014)	-300.00
<b>Total Monetary Order to Landlord</b>	<b>610.00</b>

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: July 10, 2014

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Residential Tenancy Branch

