



# 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, FF;    CNR, O

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

This hearing also dealt with tenants' cross-application pursuant to the *Act* for:

- cancellation of the landlord's three 10 Day Notices to End Tenancy for Unpaid Rent, dated December 17, 2015, January 5, 2016 and February 2, 2016 ("three 10 Day Notices"), pursuant to section 46; and
- other remedies, identified as a declaration of the total monthly rent and water consumption fee for this rental unit.

The landlord's two agents, landlord LP ("landlord") and "landlord KH" and the two tenants, tenant DT ("tenant") and "tenant RT" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Tenant RT confirmed that the tenant had authority to speak on his behalf as an agent at this hearing. The landlord confirmed that she was the managing broker and landlord KH was the rental property manager of the landlord company named in both applications and that they both had authority to speak on its behalf as agents at this hearing. This hearing lasted approximately 26 minutes in order to allow both parties to fully present their submissions and to engage in settlement negotiations.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

I advised both parties that I was unable to consider the tenants' written evidence consisting of cashed cheque copies, as this evidence was not served to the landlord and the tenants did not have this evidence in front of them during this hearing.

The tenant confirmed receipt of the landlord's three 10 Day Notices. In accordance with sections 88 and 90 of the *Act*, I find that both tenants were duly served with the landlord's three 10 Day Notices.

#### Preliminary Issues – Amendments to both Applications

Pursuant to section 64(3)(c) of the *Act*, I amend the tenants' application to correct the landlord's company's legal name, as the landlord consented to this request.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's Application to increase the monetary claim from \$754.00 to \$1,131.00 to include all unpaid rent to date. The tenants agreed that they owed this unpaid rent to the landlord. The tenants are aware that rent is due on the first day of each month as per their tenancy agreement. The tenants continue to reside in the rental unit, despite the fact that three 10 Day Notices required them to vacate earlier, for failure to pay the full rent due. Therefore, the tenants knew or should have known that by failing to pay the full rent, that the landlord would pursue all unpaid rent at this hearing. For the above reasons, I find that the tenants had appropriate notice of the landlord's claims for increased rent.

#### Issues to be Decided

Should the landlord's three 10 Day Notices be cancelled? If not, is the landlord entitled to an order of possession for unpaid rent?

What is the total monthly rent and water consumption fee for this rental unit?

Is the landlord entitled to recover the filing fee for this application from the tenants?

#### Background and Evidence

Both parties agreed that that this tenancy began on July 15, 2011. A security deposit of \$900.00 and a pet damage deposit of \$900.00 were paid by the tenants and the landlord continues to retain both deposits. A written tenancy agreement was provided for this hearing. The tenants continue to reside in the rental unit.

The landlord issued three 10 Day Notices for unpaid rent and water consumption fees, totalling \$1,131.00 from December 2015 to February 2016. The landlord seeks a monetary order for this amount and to recover the \$100.00 filing fee. The tenant agreed that this amount was unpaid.

The landlord provided a copy of three Notices of Rent Increase issued during this tenancy, raising the total monthly rent and water consumption fees from the original amount in the tenancy agreement of \$1,825.00 to the current amount of \$2,018.00.

The tenant agreed that the landlord issued the tenants the most recent valid Notice of Rent Increase, dated July 18, 2014, raising the monthly rent from \$1,975.00 to \$2,018.00 and that the tenants paid this rent amount for approximately one year prior to receiving a new Notice of Rent Increase, dated August 26, 2015 ("August 2015 notice").

The tenant stated that the landlord issued the tenants the August 2015 notice, indicating that the monthly rent was being increased from \$1,600.00 to \$1,641.00 effective on December 1, 2015, as the last increase was made on July 18, 2014. The tenant agreed that the tenants only paid \$1,641.00 total per month as per the August 2015 notice, rather than \$2,018.00 total per month, for rent and water consumption fees for the above time period. The tenant explained that the tenants believed the landlord was attempting to decrease their monthly rent so they abided by the August 2015 notice. The landlord confirmed that the August 2015 notice was issued in error, as it was intended for another rental unit not the tenants' rental unit. The tenants acknowledged this by way of their letter, undated, stating that the total rent and water consumption fees were supposed to be \$2,018.00 per month.

The tenants seek to cancel all three 10 Day Notices and obtain a declaration regarding the current monthly rent and water consumption fee.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that the rent and water consumption fee for this rental unit is \$2,018.00 total per month for the remainder of this tenancy until it is legally changed in accordance with the *Act*;
2. The tenants agreed to pay the landlord \$1,131.00 for unpaid rent and water consumption fees for December 2015, January 2016 and February 2016, by no later than February 5, 2016;
3. Both parties agreed that the landlord's three 10 Day Notices, dated December 17, 2015, January 5, 2016 and February 2, 2016, are cancelled and of no force or effect;
4. Both parties agreed that this tenancy continues on a month-to-month basis as per the terms of the written tenancy agreement, until it is ended in accordance with the *Act*;
5. The landlord agreed to bear the cost of the \$100.00 filing fee paid for this application; and
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute. The landlord, landlord KH, the tenant and tenant RT all gave verbal affirmed testimony regarding their agreement to the above settlement.

### Conclusion

I order that the rent and water consumption fee for this rental unit is \$2,018.00 total per month for the remainder of this tenancy until it is legally changed in accordance with the *Act*.

The landlord's Notice of Rent Increase, dated August 26, 2015, is cancelled and of no force or effect.

The landlord's three 10 Day Notices, dated December 17, 2015, January 5, 2016 and February 2, 2016, are cancelled and of no force or effect. This tenancy continues on a month-to-month basis as per the terms of the written tenancy agreement, until it is ended in accordance with the *Act*.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$1,131.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant(s) do not abide by condition #2 of the above monetary agreement. The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible after the tenant(s) do not abide by condition #2 of the above monetary agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlord must bear the cost of the \$100.00 filing fee for its application.

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: February 05, 2016

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Residential Tenancy Branch

