



# Dispute Resolution Services

Page: 1

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      OPC, MNSD, MNDC, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for compensation for loss or damage under the Act, regulations or tenancy agreement, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on January 3, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Is there a loss or damage and if so how much?
3. Is the Landlord entitled to compensation for the loss or damage and if so how much?
4. Is the Landlord entitled to keep the Tenant's security deposit?

### Background and Evidence

This tenancy started on April 16, 2013 as a month to month tenancy. Rent is \$825.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$400.00 on April 12, 2013.

The Landlord said she issued a 1 Month Notice to End Tenancy for Cause dated November 1, 2013, because the Tenant has been repeatedly late with rent payments and the Tenant broke a material term of the tenancy agreement. The Landlord continued to say the Tenant has been late with the rent payment for the months of July, 2013, August, 2013 September, 2013, October, 2013 and February, 2014. To support this claim the Landlord submitted copies of 10 Day Notices to end Tenancy for unpaid

rent dated October and August, 2013. The Landlord said the Tenant has no unpaid rent at this time.

As well the Landlord said the Tenant has not been paying the utilities and the Hydro Company cut off the electricity to the rental unit on or about October 30, 2013. The Landlord said this is the breach of a material term of the tenancy agreement. Clause # 11 in the tenancy agreement states that the Tenant is responsible to pay the utilities used by the rental unit. The Landlord said they want to end the tenancy because the Tenant has been repeatedly late with rent payments and the Tenant broke the utility clause in the tenancy agreement. The Landlord requested an Order of Possession for February, 28, 2014.

With respect to the Landlord's monetary claim the Landlord said that because the rent is paid she is only seeking to recover the filing fee of \$50.00.

### Analysis

Section 47(b) of the Act states that a Landlord may end a tenancy for repeatedly late rent payments and policy guideline 38 states that three late rent payments are sufficient to justify a Notice to End Tenancy under this provision. I find the Tenant has had 5 late payments since the tenancy started in April, 2013 which justifies the Landlord's 1 Month Notice to End Tenancy for Cause.

Further section 47(h) of the Act says that a Landlord can end a tenancy if a material term of the tenancy is breached. In this situation clause 11 in the tenancy agreement states a tenant must pay the utilities; therefore it is a material term and as the Tenant did not maintain the payment of the hydro utility, I find the Tenant is in breach of a material term of the tenancy agreement.

Consequently I find the Landlord has established grounds to support the 1 Month Notice to End Tenancy and the Landlord's application to end the tenancy. I award the Landlord an Order of Possession with an effective vacancy date of February 28, 2014 at 1:00 p.m.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep \$50.00 of the Tenant's security deposit to recover the filing fee of \$50.00.

Conclusion

An Order of Possession effective February 28, 2014 at 1:00 p.m. has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

The Landlord is ordered to retain \$50.00 of the Tenant's security deposit to recover the filing fee for this 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 17, 2014

---

Residential Tenancy Branch

