



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE PENINSULA PROPERTY MANAGEMENT
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 he received personally both the Notice to end Tenancy dated April 10, 2013 and the Application for Dispute Resolution. The landlord provided proof that the Application was also served by registered mail. 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 April 10, 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:

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 January 1, 2013 on a fixed term lease expiring June 30, 2013, a security deposit of \$513.50 and a pet damage deposit of \$200 were paid and rent is currently \$1027 a month. It is undisputed that the tenant owed \$3321.75 as of May 30, 2013 but has paid \$527 off this amount. He was issued a receipt for "use and occupancy only".

The landlord said that they have agreed with the tenant that he can stay until June 30, 2013 so requests an Order of Possession for that date plus a monetary order for

outstanding rent. The landlord also requests to retain the security and pet damage deposits to offset the amount owing. The tenant did not dispute the amount owing.

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 June 30, 2013 as agreed by the parties.

Monetary Order

I find that there are rental and utility arrears in the amount of \$2794.75 representing rental arrears from February 2013 to May 30, 2013, less \$527 paid on the account (\$127 Feb.+1027 for each of March, April and May +\$113.75 outstanding utilities less payment of \$527). The security and pet damage deposits will offset the amount owing.

Conclusion:

I find the landlord is entitled to an Order of Possession effective June 30, 2013 and a monetary order as calculated below. I find the landlord is entitled to retain the security and pet damage deposits to offset the rental amount owing and to recover filing fees paid for this application.

Calculation of Monetary Award:

Rental and Utility Arrears to May 30, 2013 (less payment of \$527)	2794.75
Filing Fee	50.00
Less security and pet damage deposits (no interest 2013)	-713.50
Total monetary order to landlord	2131.25

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: June 13, 2013

Residential Tenancy Branch

