



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim.

The notice of hearing was served on the tenant on May 29, 2013 by registered mail. The landlord filed a copy of the tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent, the filing fee and to retain the security deposit?

### **Background and Evidence**

The tenancy started on December 01, 2012. The monthly rent is \$1,150.00 due on the first of each month. Prior to moving, the tenant paid a security deposit of \$575.00. The landlord filed a copy of the signed tenancy agreement. A clause in the agreement requires the tenant to pay late fee of \$25.00 for rent paid after the fifth of the month. The tenant also agreed to pay \$45.00 for a parking stall.

The landlord testified that the tenant failed to pay rent for May 2013 and on May 08, 2013; the landlord served the tenant with a ten day notice to end tenancy. The tenant did not dispute the notice. The tenant made two partial payments on May 16 and June 03 and the landlord issued receipts for use and occupancy only. At the time of the hearing the tenant owed the landlord \$45.00 for May 2013 and a total of \$1,220.00 in rent, parking and late fees for June 2013.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the total amount of \$1,265.00 for unpaid rent, parking and late fees. The landlord is also applying for \$50.00 for the filing fee and to retain the security deposit in partial satisfaction of the claim.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on May 08, 2013 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make 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. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to \$1,265.00 for unpaid rent, parking and late fees. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain the security of \$575.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$740.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective **two days after service** on the tenant and a monetary order in the amount of **\$740.00**.

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 19, 2013

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Residential Tenancy Branch