

Order under Section 69
Residential Tenancies Act, 2006

File Number: CEL-32247-13

DCT (the 'Landlord') applied for an order to terminate the tenancy and evict HNL (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard in Mississauga on July 10, 2013.

The Landlord and the Tenant attended the hearing.

Determinations:

1. The Tenant has not paid the total rent he was required to pay for the period from May 1, 2013 to July 31, 2013. Because of the arrears, the Landlord served a Notice of Termination effective June 4, 2013.
2. The Landlord is not holding a last month's rent deposit. The rent deposit was applied to the rent for April 2013 at the Tenant's request.
3. The Tenant claimed that the Landlord harasses him over smoking in the rental unit and that the Landlord cut cable and internet services which he was entitled to under the tenancy agreement entered into by the parties. The Tenant has since put cable and internet services in his name.
4. The Landlord agrees that he does not want the Tenant smoking in the rental unit because his wife is allergic to cigarette smoke. The Landlord resides on the upper level of the residential complex and the Tenant resides in the basement. The smoke from the Tenant's unit affects the Landlord's wife in the upper unit.
5. The Landlord denies that cable and internet services were included in the tenancy agreement.
6. I find that while there is no law that stops a tenant from smoking in the rental unit, the Tenant has to be mindful that the Landlord's wife is allergic to cigarette smoke and limit his smoking to the outside of the residential complex.
7. No evidence was provided that the Tenant is entitled to cable and internet services under his tenancy agreement and the Tenant did not request compensation for the discontinued services.
8. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until August 15, 2013 pursuant to subsection 83(1)(b) of the Act:
 - The Tenant was due to have surgery to remove his hernia on July 9, 2013. The surgery however was cancelled and will be rescheduled to a later date because the

hospital was affected by an area wide hydro black that was caused by heavy rains in the area. The Tenant will need time to recuperate from his surgery and to find alternative accommodation before moving out of the rental unit. The Tenant requested a delay in the termination of the tenancy to the end of September;

- The Landlord objected to a delay in the termination of the tenancy because the Tenant is abusive to the Landlord and has not paid any rent since May 2013. The Landlord also needs the money from the rent to pay his mortgage.
- I have delayed the termination of the tenancy by one month.

It is ordered that:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before August 15, 2013.
2. The Tenant shall pay to the Landlord \$2,045.41*, which represents the amount of rent owing and compensation up to July 15, 2013.
3. The Tenant shall also pay to the Landlord \$27.12 per day for compensation for the use of the unit starting July 16, 2013 to the date he moves out of the unit.
4. The Tenant shall also pay to the Landlord \$170.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before August 15, 2013, the Tenant will start to owe interest. This will be simple interest calculated from August 16, 2013 at 3.00% annually on the balance outstanding.
6. If the unit is not vacated on or before August 15, 2013, then starting August 16, 2013, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord, on or after August 16, 2013.
8. If the Tenant wishes to void this order and continue the tenancy, he must pay to the Landlord or to the Board in trust:
 - i) \$2,645.00 if the payment is made on or before July 31, 2013, or
 - ii) \$3,470.00 if the payment is made on or before August 15, 2013**.If the Tenant does not make full payment in accordance with this paragraph and by the appropriate deadline, then the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after August 16, 2013 but before the Sheriff gives vacant possession to the Landlord. The Tenant is

only entitled to make this motion once during the period of the tenancy agreement with the Landlord.

July 15, 2013
Date Issued

Freda Shamatutu
Member, Landlord and Tenant Board

Central-RO
3 Robert Speck Pkwy, Suite 520, 5th Floor
Mississauga ON L4Z2G5

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on February 16, 2014 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

- * Refer to section A on the attached Summary of Calculations.
- ** Refer to section B on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

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A. Amount the Tenant must pay if the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	May 1, 2013 to June 4, 2013	\$933.49
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	June 5, 2013 to July 15, 2013	\$1,111.92
Amount owing to the Landlord on the order date: (total of previous boxes)		\$2,045.41
Additional costs the Tenant must pay to the Landlord:		\$170.00
Plus daily compensation owing for each day of occupation starting July 16, 2013:		\$27.12 (per day)
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$2,215.41, + \$27.12 per day starting July 16, 2013

B. Amount the Tenant must pay to void the eviction order and continue the tenancy:

1. If the payment is made on or before July 31, 2013:

Reasons for amount owing	Period	Amount
Arrears:	May 1, 2013 to July 31, 2013	\$2,475.00
Additional costs the Tenant must pay to the Landlord:		\$170.00
Total the Tenant must pay to continue the tenancy:	On or before July 31, 2013	\$2,645.00

2. If the payment is made after July 31, 2013 but on or before August 15, 2013:

Reasons for amount owing	Period	Amount
Arrears:	May 1, 2013 to August 31, 2013	\$3,300.00
Additional costs the Tenant must pay to the Landlord:		\$170.00
Total the Tenant must pay to continue the tenancy:	On or before August 15, 2013	\$3,470.00