



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Columbia Centennial Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD and FF

Introduction

This hearing was convened on an application made by the landlord on March 18, 2013 seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served by posting on the tenant's door on March 6, 2013. The landlord also sought a Monetary Order for the unpaid rent, recovery the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested.

Background and Evidence

This tenancy began on May 1, 2005. Rent is currently \$475 per month and the landlord holds a security deposit of \$300 paid on May 18, 2005.

During the hearing, the parties concurred that the tenant had a rent shortfall of \$311 for the rent for February 2013 and had paid none of the rent for March 2013. The rent for April 2013 has been paid.

While the tenant stated she believes social assistance had committed to pay off the arrears at \$100 per month, the landlord stated that he would need board approval to consider reinstating the tenancy and continued his request for the orders in the event approval was not granted.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due whether or not the landlord is in compliance with the legislation or rental agreement.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. Tenants may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) & (6) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was March 19, 2013 taking into account the three days for deemed service of notice served by posting.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect at 1 p.m. on April 30, 2013 as requested.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent, recovery of the filing fee for this proceeding and, as permitted under section 72 of the *Act*, authorization to retain the security deposit in set off, calculated as follows:

Rent shortfall for February 2013	\$311.00
Rent for March 2013	475.00
Filing fee	<u>50.00</u>
Subtotal	\$836.00
Less retained security deposit	- 300.00
Less interest (May 18, 2005 to date)	<u>- 10.62</u>
Balance for Monetary Order	\$525.38

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on April 30, 2013 for service on the tenant.

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order for **\$525.38**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

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: April 12, 2013

Residential Tenancy Branch