



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Greater Victoria Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent?

May the landlord retain the security deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Preliminary Matters

The application was amended to include a claim for unpaid April 2013 rent.

Background and Evidence

The tenancy commenced on February 1, 2012, rent is \$700.00 per month due on the first day of each month. A deposit in the sum of \$350.00 was paid.

The tenant confirmed that on March 13, 2013 he received a Ten Day Notice to End Tenancy for Unpaid Rent and that he currently owes March and April, 2013 rent; plus \$350.00 for previous arrears.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$1,750.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant paid the rent or filed an Application for Dispute Resolution within five days. The effective date of the Notice was March 24, 2013.

The parties agreed that at the time the Notice was served the tenant owed \$1,050.00 in rent and that he now owes \$1,750.00 to the end of April, 2013.

Analysis

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me the tenant has confirmed that he has been unable to pay the rent that is currently owed in the sum of \$1,750.00 to the end of April, 2013, inclusive.

Therefore, as the tenant has failed to pay the rent or dispute the Notice, I find, pursuant to section 46(5) of the Act, that the tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective 2 days after it is served to the tenant.

Based on the acknowledgement of the tenant I find that the tenant has not paid rent in the amount of \$1,750.00 to the end of April 2013 inclusive and that the landlord is entitled to compensation in that amount.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$350.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order in the sum of \$1,450.00. In the event that the tenant does not comply with this Order, it may be

served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession.

The landlord is entitled to a monetary Order for unpaid rent.

The landlord is entitled to the filing fee cost.

The landlord may retain the security deposit.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 24, 2013

Residential Tenancy Branch

