



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Metro Vancouver Housing Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

Both parties participated in the hearing with their submissions, document evidence and testimony during the hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The tenant acknowledged receiving the evidence of the landlord.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began in 2001. Rent in the amount of \$876.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$382.50. The tenant failed to pay rent in the month of March 2013 and on March 02, 2013 the landlord served the tenant with a notice to end tenancy for non-payment of rent by posting it on their door. The tenant acknowledged receiving the Notice to End. The tenant testified that on March 12, 2013 they placed a cheque for the amount of \$880.00, to satisfy the unpaid, rent in the landlord's box designated for the submission of rent. The landlord soon after provided the tenant with a receipt for the rent accepting it *For Use and Occupancy Only* and

accompanied it with a letter confirming this condition and confirming the landlord's intent to end the tenancy.

The tenant subsequently paid the rent for April but it was mistakenly returned to the tenant, with the effect that the rent for April 2013 has not been satisfied. The landlord seeks an Order of Possession effective April 30, 2013 and the unpaid rent for April 2013.

Analysis

Based on the evidence and the testimony of the tenant and the landlord I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant was deemed served with the Notice to end 3 days after it was posted – March 05, 2013. The tenant did not apply for Dispute Resolution to dispute the notice within the prescribed and stated 5 days to do so, and although they paid the rent they did so **after** the 5 days prescribed on the Notice to End and Section 45(4) of the Act and effective date of the Notice – March 10, 2013. I find the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I further find that according to Section 45(5) of the Act the tenant must vacate the rental unit. I find the landlord accepted the rent paid on March 12, 2013 for *Use and Occupancy Only* and further notified the tenant they sought to end the tenancy. Based on the above facts I find that the landlord is entitled to an Order of Possession which they testified may be effective April 30, 2013.

I find that the landlord is owed the rent for April 2013 in the amount of \$876.00. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$926.00**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Rent for April 2013	\$786.00
Credit to tenant from March 2013 rent paid	-\$4.00
Filing Fee for the cost of this application	50.00
Less Security Deposit and applicable interest <i>to date</i>	-399.89
Total Monetary Award	\$432.11

Conclusion

I grant an Order of Possession to the landlord **effective April 30, 2013**. If the landlord determines to end this tenancy **the tenant must be served with this Order of Possession**. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I Order that the landlord retain the security deposit and interest of \$399.89 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for

the balance due of **\$432.11**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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 10, 2013

Residential Tenancy Branch

