



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, MNDC, 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. A Monetary Order for compensation – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

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 October 2007. Rent of \$540.00 is payable in advance on the first day of each month. On August 27, 2007, the Landlord collected \$400.00 as a security

deposit from the Tenant. The tenancy agreement is signed by the first named Tenant and the second named Tenant is listed as an occupant. The Tenant owed arrears from June 2013 and failed to pay rent for July 2013. On July 5, 2013 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Tenant has not been seen for a couple of weeks however the Landlord entered the unit on Tuesday, September 10, 2013 and noted that furnishing and clothing was still present. The Tenant has not returned the keys to the unit, has not made an application for dispute resolution, and has not paid the arrears or rent owing. The Landlord claims 1,860.00.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with the Notice. The Tenant has not filed an application to dispute the Notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**.

As tenancy agreement was not entered into by the second named Tenant in the application, I dismiss the monetary claim against this person. Based on the undisputed evidence that the Tenant failed to pay the rent under the tenancy agreement, I find that Landlord has established an entitlement to **\$1,860.00** in unpaid rent. I include rent for September 2013 as the Tenant has not informed the Landlord of having vacated the unit, has not returned the keys and has not removed personal belongings and I find on a balance of probabilities that the Tenant has not vacated the unit. The Landlord is also entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$1,910.00**.

Setting the security deposit of **\$400.00** plus **\$8.12** interest off the entitlement leaves **\$1,501.88** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord. 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 **deposit** and interest of \$400.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,501.08**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: September 11, 2013

Residential Tenancy Branch

