



Dispute Resolution Services

Page: 1

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:

MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on November 04, 2013 the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the Tenant, via registered mail, at the service address noted on the Application. The Landlord submitted a Canada Post receipt that corroborates this statement. The Building Manager stated that the Tenant verbally provided him with this service address after the tenancy ended, when he saw her at her place of employment. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to compensation for costs related to the Tenant failing to comply with an Order of Possession and to compensation for unpaid rent?

Background and Evidence

The Agent for the Landlord stated that this tenancy began on January 01, 2012 and that the Tenant was required to pay monthly rent of \$875.00 by the first day of each month.

The Landlord submitted a copy of a decision, dated April 03, 2012, in which an Arbitrator determined that the Tenant had not paid rent that was due; that the Tenant had been served with a Notice to End Tenancy for Unpaid Rent; and that the Landlord was entitled to an Order of Possession. The Landlord submitted a copy of the associated Order of Possession, which declares that the Tenant must vacate the rental unit not later than 2 days after the Order is served upon the Tenant.

The Agent for the Landlord stated that an Order of Possession was served to the Tenant, via registered mail, on April 11, 2012. The Landlord submitted a Canada Post receipt that corroborates this statement.

The Building Manager stated that the rental unit was still being occupied when he attend the rental unit on May 14, 2012, although the Tenant was not present on that date.

The Agent for the Landlord stated that the Landlord obtained a Writ of Possession for the rental unit on May 09, 2012. The Landlord is seeking compensation for the cost of filing for a Writ of Possession, in the amount of \$141.00. The Landlord submitted two receipts that indicate this expense was incurred.

The Agent for the Landlord stated that she does not know if the Writ of Possession was served to the Tenant, although she is certain that the Writ of Possession was executed by the bailiff on May 14, 2012 and that the Landlord obtained lawful possession of the rental unit on that date. The Landlord is seeking compensation for the costs of executing the Writ of Possession. The Landlord submitted an invoice that shows the Landlord was charged \$1,567.34 for the services of the bailiff, which the Landlord is seeking to recover.

The Landlord is seeking compensation, of \$875.00 in unpaid rent/lost revenue for April of 2012 and \$424.00 in unpaid rent/lost revenue for the period between May 01, 2012 and May 14, 2012. The Agent for the Landlord stated that the Tenant paid no rent for April or May of 2012.

Analysis

Section 67 of the *Act* authorizes me to order a tenant to pay compensation to a landlord if the landlord suffers a loss as a result of the tenant failing to comply with the *Act* or the tenancy agreement.

On the basis of the Arbitrator's decision, dated April 03, 2012, I find that the Tenant breached the *Act* and the tenancy agreement when the Tenant did not pay rent when it was due and when the Tenant did not vacate the rental unit on the effective date of the Notice to End Tenancy that was served. On the basis of the testimony of the Agent for the Landlord and the building manager, I find that the Tenant breached the *Act* when the Tenant did not vacate the rental after being served with the Order of Possession.

I find that the Tenant's failure to vacate the rental unit made it necessary for the Landlord to obtain and execute a Writ of Possession. I therefore find that the Landlord is entitled to compensation for costs associated to obtaining and executing a Writ of Possession, which includes court filing fees of \$141.00 and bailiff fees of \$1,567.34.

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.

On the basis of the undisputed evidence, I find that the Tenant occupied the rental unit for the entire month of April of 2012 and that no rent was paid for that month. As the Tenant occupied the rental unit during that month, I find that the Tenant must pay rent for that entire month, in the amount of \$875.00. On the basis of the decision that was submitted in evidence, dated April 03, 2012, I find that an Arbitrator has already awarded the Landlord compensation \$437.50 for the month of April of 2012. I therefore find that the Landlord has been partially compensated for the month of April and that the Landlord is only entitled to an additional \$437.50.

On the basis of the undisputed evidence, I find that the Tenant occupied the rental unit for the first 14 days of May of 2012 and that no rent was paid for that month. I find that the Tenant must pay rent, on a per diem basis, for the 14 days in May that the rental unit was occupied, at a daily rate of \$28.23. 14 days of rent at this rate is \$395.22 and I find that the Tenant must pay the Landlord this amount.

Conclusion

The Landlord has established a monetary claim, in the amount of \$2,591.06, which is comprised of \$832.72 in unpaid rent, \$1,708.34 in expenses related to executing a Writ of Possession, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the amount \$2,591.06. 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.

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: February 18, 2014

Residential Tenancy Branch

