



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 OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “*Act*”) by the landlord for an order of possession for unpaid rent, for a monetary order for unpaid rent, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, to keep all or part of the tenant’s security deposit and pet damage deposit, and to recover the cost of the filing fee.

An agent for the landlord (the “agent”) and the tenant appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the matters before me.

The tenant testified that she received the documentary evidence from the landlord prior to the hearing and that she had the opportunity to review that evidence prior to the hearing. The tenant confirmed that she did not submit documentary evidence in response to the landlord’s application. I find the tenant was served in accordance with the *Act*.

Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant’s security deposit and pet damage deposit under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A periodic, month to month tenancy began on September 1, 2013. Monthly rent in the amount of \$1,350.00 is due on the first day of each month. A security deposit of \$675.00 and a pet damage deposit of \$675.00 were paid by tenant at the start of the tenancy, which the landlord continues to hold.

The tenant confirmed that she was served with a 10 Day Notice for Unpaid Rent or Utilities, (the "10 Day Notice") dated June 5, 2014 on June 5, 2014. The 10 Day Notice stated that \$1,350.00 was owed as of June 1, 2014 and had an effective vacancy date of June 15, 2014. The tenant testified that she provided a cheque to the landlord on June 6, 2014, and confirmed that the cheque was returned as "Non Sufficient Funds" ("NSF"). The tenant also confirmed not disputing the 10 Day Notice. The tenant stated that she later paid June 2014 rent on June 16, 2014 by money order placed into the landlord's mailbox, which the landlord stated was received on or about June 25, 2014. The parties also confirmed that July 2014 rent was paid late by the tenant on or about July 21, 2014. The landlord continues to seek an order of possession; however, the agent was willing to agree to July 31, 2014 as the date for the order of possession.

The landlord's monetary claim was in the amount of \$1,375.00 comprised of \$1,350.00 for unpaid June 2014 rent plus "\$25.00", however, the landlord failed to indicate what the \$25.00 was for in their application and did not present evidence during the hearing regarding the \$25.00 portion of their monetary claim.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of Possession – The tenant confirmed during the hearing that she provided a cheque to the landlord one day after being served with a 10 Day Notice and that the cheque was returned as "NSF". The tenant also confirmed that she did not pay June 2014 rent by money order until July 16, 2014 which is six days beyond the 5-day timeline provided for under section 46 of the *Act*. Therefore, I find the tenant is conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the effective vacancy date of the 10 Day Notice, which was June 15, 2014. Accordingly, **I grant** the landlord an order of possession effective **July 31, 2014 at 1:00 p.m.**, as the agent agreed to that date during the hearing.

Claim for unpaid rent and “\$25.00” – As June 2014 rent was paid, albeit late and beyond the date provided for under section 46 of the *Act*, and due to insufficient details provided regarding the amount of “\$25.00” being claimed, I do not grant the landlord unpaid rent for June 2014 or the “\$25.00” amount being claimed. I dismiss this portion of their application without leave to reapply.

As the landlord’s application had merit, **I grant** the landlord the recovery of the **\$50.00** filing fee.

Monetary claim – I ORDER the landlord to retain **\$50.00** of the tenant’s \$675.00 security deposit in full satisfaction of the landlord’s recovery of the filing fee. Therefore, I find the tenant’s security deposit balance is \$625.00, and the pet damage deposit is \$675.00, and must be dealt with in accordance with section 38 of the *Act*.

Conclusion

The landlord has proven their claim and is, therefore, entitled to an order of possession. The landlord has been granted an order of possession effective July 31, 2014 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been ordered to retain \$50.00 of the tenant’s \$675.00 security deposit in full satisfaction of the landlord’s recovery of the filing fee. The tenant’s security deposit balance is \$625.00, and the pet damage deposit is \$675.00, and must be dealt with in accordance with section 38 of the *Act*.

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: July 23, 2014

Residential Tenancy Branch

