



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:

Landlord's application: OPR; MNR; MNDC; MNSD; FF

Tenant's application: CNR

Introduction

This Hearing was convened to consider cross applications. The Landlord seeks an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; to retain the security deposit in partial satisfaction of its monetary award; and to recover the cost of the filing fee from the Tenant.

The Tenant seeks to cancel a 10 Day Notice to End Tenancy for Unpaid Rent.

The Landlord's agents and the Tenant gave affirmed testimony at the Hearing.

The parties acknowledged receipt of each other's Notice of Hearing documents and documentary evidence.

The Hearing process was explained to the parties, who were given the opportunity to make submissions and to cross examine each other.

Issues to be Decided

- Is the Notice to End Tenancy issued October 3, 2014, a valid notice?
- Is the Landlord entitled to monetary award for unpaid rent for the months of May and October, 2014, and loss of revenue for November, 2014?

Background and Evidence

On April 17, 2014, the parties signed a tenancy agreement, a copy of which was provided in evidence. The rental property is a residential property designated for seniors and/or persons with disabilities. Monthly rent is subsidized. Market rent for the rental unit is \$479.00 per month. The Tenant's subsidized rent is \$366.00 and is due on or before the first day of each month. The tenancy began on May 1, 2014. The Tenant paid a security deposit in the amount of \$239.50 at the beginning of the tenancy.

The Landlord's agent YB testified that the Tenant did not pay rent for the months of May or October, 2014. The Landlord issued a 10 Day Notice to End Tenancy for Unpaid rent on October 3, 2014 (the "Notice"). It is undisputed that the Tenant was served with the Notice on October 3, 2014.

The Tenant testified that he paid rent in cash for May, 2014, at the same time he paid the security deposit. The Tenant testified that he was given a receipt, but he has lost it. The Landlord's agent YB testified that the Tenant paid the security deposit, but not the rent, and that a receipt was issued for the security deposit. She stated that the Landlord's practice was to give one receipt for cash payments made on the same day and to indicate on the receipt what the payments were for.

YB stated that the Landlord provides subsidized housing and therefore is more lenient with respect to delinquent accounts, but that when the Tenant did not pay rent when it was due in October, the Landlord issued the Notice. YB stated that the Tenant has not made any payment towards November, 2014.

The Tenant testified that rent was paid directly by the Ministry. The Tenant provided a copy of a Release of Personal Information letter from the Ministry, indicating that rent in the amount of \$366.00 was paid directly to the Landlord from June, 2014 to September, 2014. The Tenant stated that he stopped the direct payments effective October, 2014.

The Tenant did not dispute that he has not paid anything for the months of October and November, 2014.

The Landlord asked for an Order of Possession effective November 30, 2014, in order to allow the Tenant more time to find new accommodation.

Analysis

Based on the testimony and documentary evidence provided, I find, on the balance of probabilities, that the Tenant is mistaken about paying rent for the month of May, 2014. The documentary evidence shows that the Ministry paid rent directly to the Landlord, but did not start making payments until June, 2014. I accept the Landlord's agent's testimony that her copy of the receipt dated April 28, 2014, indicates payment in cash for the security deposit only, in the amount of \$239.50. I also accept the Landlord's agent's testimony that it is procedure for the Landlord to issue one receipt for cash payments made on the same day.

Therefore, I find that the Notice is a valid notice to end the tenancy. The Tenant's application is dismissed. Based on the evidence provided, I find that the tenancy ended

on October 13, 2014, and the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant. However, the Landlord asked that the Order of Possession be effective November 30, 2014. Therefore, I hereby provide the Landlord with an Order of Possession effective 1:00 p.m., November 30, 2014.

The Tenant acknowledges that he has not paid rent for the month of October or for use and occupancy of the rental unit for November, 2014. Therefore, I find that the Landlord is entitled to a monetary award for unpaid rent and loss of revenue, as claimed.

The Landlord also seeks late charges for the months of May, October and November, 2014. Clause 11(c) of the tenancy agreement has a provision for late fees in the amount of \$25.00 for late rent. I find that the Landlord is entitled to late fees for the months of May and October, 2014. Late fees are for late rent, and I find that loss of revenue is not the same thing as late rent. Therefore, the Landlord's request for late fees for the month of November is dismissed.

I accept that the Notice was served on December 2, 2011. Therefore, I find that the tenancy ended 10 days afterwards, on December 12, 2011. I find that the Tenant is

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit in partial satisfaction of its monetary award.

The Landlord has been successful in its application and I find that it is entitled to recover the cost of the filing fee from the Tenant.

I hereby provide the Landlord a Monetary Order, calculated as follows:

Unpaid rent (May and October, 2014)	\$732.00
Loss of revenue (November, 2014)	\$366.00
Late fees (May and October, 2014)	\$50.00
Recovery of filing fee	\$50.00
Less security deposit held by Landlord	<u>-\$239.50</u>
Total	\$958.50

Conclusion

The Tenant's application to cancel the Notice to End Tenancy issued October 3, 2014, is dismissed.

I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., November 30, 2014**, for service upon the Tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord with a Monetary Order in the amount of **\$958.50** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: November 20, 2014

Residential Tenancy Branch

