



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEW VISTA SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Preliminary Matter

This matter was originally reviewed as a Direct Request (non-participatory hearing) on March 2, 2015. The Adjudicator referred the matter to a participatory hearing dated today, April 8, 2015, as the Adjudicator found the monetary claim of the Landlord was not clear and therefore the matter was not appropriate for a non-participatory hearing.

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord said she served the Tenant with the participatory Notice of Hearing (the "hearing package") by registered mail on March 11, 2015. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties represented. It should be noted the representative for the Tenant was an occupant of the rental unit and he was also serviced the Notice of Hearing documents.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started on July 1, 2012 as a month to month tenancy. Market rent now is \$786.00 and the Tenant's portion of the subsidized rent payment is \$482.33 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$475.00 on July 1, 2012.

The Landlord said that the Tenant did not pay \$482.33 of rent for the months of July, August, September, October, November, December, 2014 and for January, 2015, when it was due and as a result, on January 21, 2015 she posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated January 21, 2015 on the door of the Tenant's rental unit. The Landlord said the Tenant has unpaid rent for February, March and April, 2015 in the amount of \$786.00 for each month as the Landlord has not cashed the ministry cheques of \$303.67 for those three months. The Landlord said the Tenant has a total of \$5,734.31 in unpaid rent.

As well the Landlord requested an Order of Possession for as soon as possible.

The Tenant's representative agreed that they have not paid the full rent since July, 2014, but he was not sure of the amount of unpaid rent there is. The Tenant's representative said the rent subsidy forms are confusing and his son who is disabled, turned 19 years old which changed the rent subsidy application. The Tenant's representative said there is unpaid rent but he is unsure of the amount.

Further the Tenant's representative said they would appreciate continuing to live in the unit until April 30, 2015 to give them time to move. The Tenant's representative said they are prepared to move, but they need some time as they need to find accommodations that will work for their son.

The Landlord said she will agree to continue the use and occupancy of the unit with the Tenant and occupants until April 30, 2015 to accommodate the Tenant's needs.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on January 24, 2015. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than January 29, 2015.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant, but as the parties agreed to extend the use and occupancy of the unit to April 30, 2015, I grant an Order of Possession to the Landlord effective on April 30, 2015 at 1:00 p.m.

I also find that the Landlord is entitled to recover unpaid rent for the months of July 2014 through to April, 2015, in the amount of \$5,734.31.

As the Landlord has been successful in this matter the Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$5,734.31	
Subtotal:		\$5,734.31
Balance Owing		\$5,734.31

Conclusion

An Order of Possession effective on April 30, 2015 at 1:00 p.m. and a Monetary Order in the amount of \$5,734.31 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 08, 2015

Residential Tenancy Branch

