



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIAN CENTENNIAL HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; for an Order permitting the landlords to keep all or part of the tenant's security and pet deposit; and to recover the filing fee from the tenant for the cost of this application.

The tenant, the landlord and a witness for the landlord attended the conference call hearing and gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenant confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure.

Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order to recover rent owed?
- Is the landlord entitled to keep the security and pet deposit?

Background and Evidence

The parties agreed that this tenancy started on April 01, 2012. Rent for this unit is subsidized. The tenant pays a portion of the market rent per month of \$543.00 which is due on the 1st of each month. The tenant paid a security deposit of \$300.00 on February 29, 2012 and a pet deposit of \$300.00, of which \$150.00 was paid on July 03, 2014 and \$150.00 was paid on August 29, 2014.

The landlord testified that the tenant failed to pay rent for May, 2015 of \$543.00. The landlords issued a 10 Day Notice to End Tenancy for unpaid rent (the Notice) on May 07, 2015. This was posted to the tenant's door at 8.30 a.m. on that date. The landlord's witness gave sworn testimony to this service. The tenant had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on May 17, 2015. The tenant did not pay the outstanding rent or file an application to dispute the Notice. Since that time the tenant has failed to pay rent for June, 2015 of \$543.00. The total amount of unpaid rent is now \$1,086.00. The landlord requested permission to amend their application to include the unpaid rent for June, 2015 as the tenant has continued to reside in the rental unit.

The landlord has applied to retain the tenant's security and pet deposit of \$600.00 in partial payment of the rent arrears. The landlord has also applied for an Order of Possession to take effect On June 30, 2015.

The tenant did not dispute the landlord's claim that the rent for May, 2015 was unpaid. The tenant testified that there are many dysfunctional families living in the units and some of the teenagers broke into her unit and stole her rent money for May. The tenant testified that she did not report it to the landlord as the landlords never do anything about it but the tenant did report it to the Police. The tenant agreed that she had not paid rent for June, 2015.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to s. 26 of the *Act* which states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I am satisfied from the evidence before me that there is outstanding rent for May, 2015 of \$543.00 and outstanding rent for June, 2015 of \$543.00. The tenant has provided insufficient evidence to show her rent money had been stolen; however, even if this was the case the

tenant remains responsible for the rent while she resides in the rental unit. As the tenant has continued to reside in the rental unit past the effective date of the Notice I will allow the landlord to amend their application to include the unpaid rent for June, 2015. Consequently, it is my decision that the landlord is entitled to recover the outstanding rent to a total amount of **\$1,086.00.**

I Order the landlord, pursuant to s. 38(4)(b) of the *Act*, to keep the tenant's security and pet deposit of \$600.00 in partial payment of the rent arrears. There has been no interest accrued on the deposits during this tenancy. The deposits have been offset against the unpaid rent.

As the landlord has been successful in this matter, the landlord is also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlord will receive a Monetary Order pursuant to s. 67 and 72(1) of the *Act* for the balance owing as follows:

| | |
|---|-----------------|
| Outstanding rent | \$1,086.00 |
| Filing fee | \$50.00 |
| Less security and pet deposit | (-\$600.00) |
| Total amount due to the landlord | \$536.00 |

I have reviewed all documentary evidence and accept that the tenant has been served with Notice to End Tenancy as declared by the landlord. The Notice is deemed to have been received by the tenant on May 10, 2015 and the effective date of the Notice is amended to May 20, 2015 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the amended effective date of the Notice. As this date has since passed I grant the landlord an Order of Possession as requested, pursuant to s. 55 of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$536.00** pursuant to s. 67 and 72(1) of the *Act*. The Order must be served on the Respondent. If the Respondent fails to comply with the Order, the Order is enforceable through the Provincial Court as an Order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlords effective at **1.00 p.m. on June 30, 2015**. This Order must be served on the Respondent. If the Respondent fail to comply with the Order, the Order may be filed in the Supreme 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: June 18, 2015

Residential Tenancy Branch

