



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 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 landlord to keep all or part of the tenants' security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

During the hearing the landlord's agent withdrew the application for a Monetary Order for money owed or compensation for damage or loss under the *Act*, regulations or tenancy agreement.

The tenant AH and an agent for the landlord (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 deposit?

Background and Evidence

The parties agreed that this tenancy started on March 01, 2013. Rent for this unit is now \$1,204.00 which is due on the 1st of each month. The tenants paid a security deposit of \$575.00 on February 11, 2013.

The landlord testified that the tenants failed to pay the full amount of rent from August, 2014 to May, 2015. There was an outstanding amount of \$3,003.54. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent (the Notice) on May 06, 2015. This was posted to the tenant's door on that date. The Notice informed the tenants that they had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on May 16, 2015. The tenants did not pay the outstanding rent or file an application to dispute the Notice. Since that time the tenants have made some rent payments of \$320.00 on June 15, \$207.50 on June 19, \$227.50 on June 29 and \$340.00 on July 06, 2015. These payments were accepted by the landlord for use and occupancy only. To date the tenants owe \$2,506.54.

The landlord has applied to retain the tenants' security deposit of \$575.00 in partial payment of the rent arrears. The landlord has also applied for an Order of Possession to take effect On July 31, 2015.

AH did not dispute the landlord's claim that the rent is outstanding. AH testified that that they had become behind with the rent while they were waiting for AH's disability to come through. AH testified that she has applied for a hardship loan and is waiting to receive this but it all takes time to come through.

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 up to and including July, 2015 of **\$2,506.54**. Consequently, it is my decision that the landlord is entitled to recover the outstanding rent and will be issued with a Monetary Order pursuant to s. 67 of the *Act*.

I Order the landlord, pursuant to s. 38(4)(b) of the *Act*, to keep the tenants' security deposit of **\$575.00** in partial payment of the rent arrears. There has been no interest accrued on the deposit 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 **\$100.00** 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	\$2,506.54
Filing fee	\$100.00
Less security deposit	(-\$575.00)
Total amount due to the landlord	\$2,031.54

I have reviewed all documentary evidence and accept that the tenants have been served with Notice to End Tenancy as declared by the landlord. The Notice is deemed to have been received by the tenants on May 09, 2015 and the effective date of the Notice is amended to May 19, 2015 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenants have 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 tenants are 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 **\$2,031.54** pursuant to s. 67 and 72(1) of the *Act*. The Order must be served on the Respondents. If the Respondents fail 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 July 31, 2015**. This Order must be served on the Respondents. If the Respondents 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: July 08, 2015

Residential Tenancy Branch

