



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: OPR, MNR, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent or utilities / retention of all or part of the security deposit / and recovery of the filing fee. 2 of the landlord's agents (the "landlord") attended and gave affirmed testimony. The tenant did not appear.

The landlord testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served by way of registered mail. Evidence provided by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered" on August 07, 2015. The successful delivery of the item was acknowledged by way of the tenant's signature at the Post Office. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served in compliance with section 89 of the Act which addresses **Special rules for certain documents**.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on January 01, 2014. The tenant's portion of the subsidized rent is \$294.00, and it is due and payable in advance on the first day of each month. As well, monthly payment of cablevision in the amount of \$33.00 is due and payable in advance on the first day of each month [monthly total: \$327.00]. A security deposit of \$292.00 was collected.

Arising from rent or utilities which remained overdue on July 01, 2015 in the total amount of \$229.00, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated July 07, 2015. The notice was served by way of posting to the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 20, 2015. Subsequently, while the tenant has made payments toward the overdue amount shown on the 10 day notice, he has not kept pace with his

continuing obligation to make payments which become due on the first day of each month. In the result, the tenant's current debt to the landlord totals \$158.00.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent or utilities dated July 07, 2015. The tenant did not pay the full amount of outstanding rent or utilities within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As to compensation, effective October 06, 2015 I find that the landlord has established a claim of **\$208.00**, which comprises unpaid rent or utilities of \$158.00, in addition to the \$50.00 filing fee. I order that the landlord retain **\$208.00** from the security deposit of **\$292.00**, leaving a balance of **\$84.00** (\$292.00 - \$208.00) to be managed by the parties at the end of tenancy. In this regard, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Small Claims Court and enforced as an order of that Court.

The landlord is ordered that s/he may retain **\$208.00** from the tenant's security deposit of \$292.00 in order to recover the overdue rent and utilities, in addition to the filing fee for this application.

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: October 06, 2015

Residential Tenancy Branch

