



Dispute Resolution Services

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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, OPB, MND, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for Possession - Section 55;
2. A Monetary Order for damages to the unit - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenant did not appear at the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matters

The Landlord states that the claims for damages, lost rental income and return of the security deposit were made in error and prior to the end of the tenancy. The Landlord withdraws those claims to be brought forward in the future. The Landlord seeks unpaid rent instead of the lost rental income.

Rule 4.2 of the Residential Tenancy Branch Rules of Procedure provides that an application may be amended at the hearing in circumstances that can reasonably be anticipated. As the Tenant could have attended the hearing and as the Tenant would

be aware of the rental liability and could reasonably anticipate such a claim, I find under the circumstances that the application may be amended to add the claim for unpaid rent.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession and unpaid rent?

Background and Evidence

The tenancy started on August 1, 2011. Rent of \$500.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$450.00 as a security deposit and \$490.50 as a pet deposit. On January 26, 2016 the Landlord served the Tenant with a notice to end tenancy for cause (the "Notice") by posting the Notice to the door of the unit. The Tenant did not dispute the Notice and has not paid the rent for March and April 2016. The Landlord is not sure whether the Tenant has moved out of the unit as no keys have been returned and the Tenant has not communicated with the Landlord. The Landlord seeks unpaid rent and an order of possession.

Analysis

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the Notice by making an application for dispute resolution and the time for making that application has expired.

Based on the Landlord's evidence I find that the Tenant was given an effective Notice. The Tenant has not filed an application to dispute the Notice, has not moved out of the unit and has not paid rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$1,000.00** in unpaid rent. The Landlord is entitled to recovery of the \$100.00 filing fee for a total monetary amount of **\$1,100.00**. Setting the combined security and pet

deposit of \$940.50 plus zero interest off the entitlement leaves **\$159.50** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain the **deposit** and interest of \$940.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$159.50**. If necessary, this order may be filed in the Small Claims 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: April 22, 2016

Residential Tenancy Branch