



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, mnr, mndcv, mnsd, ff

Introduction

The landlord applies for dispute resolution and requests an Order of Possession, a Monetary Order; and an order to retain the security deposit.

The landlord's representatives attended the hearing. The tenant did not attend. I accept that the tenant was properly served with the Application for Dispute resolution hearing package by way of registered mail, satisfying the provisions of section 88 of the Residential Tenancy Act.

Issues to Be Decided

- Is the Notice to End Tenancy served upon the tenant effective to end this tenancy, and entitle the landlord to an Order of Possession?
- Is rent money and/or the filing fee payable to the landlord?
- Has the tenancy been reinstated?
- Is the landlord entitled to retain the deposit in partial satisfaction of the amount owing?

Background and Evidence

This tenancy began on November 1, 2003. Subsidized rent is due on the 1st day of each month in the amount of \$389.00. A security deposit of \$455.00 was paid on October 10, 2003. The landlord served the tenant (by posting on the tenant's door on June 3, 2016) a 10-Day Notice to End Tenancy, after not receiving rent for the month of June. The tenant did not pay the rent or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. Subsequent rental payments were made: \$603.00 on July 13, 2016, \$855.00 on July 21, 2016, and \$369.00 on August 9, 2016. Each of these payments were received by the landlord on a use and occupation basis, and there is no monies currently owing (other than for a sum of \$117.00, for which a monetary order has already been issued in a prior hearing). The tenant continues to reside in the premises.

Analysis

The tenant is deemed to have received the 10 Day Notice to End Tenancy on June 6, 2016 by virtue of section 90 of the Residential Tenancy Act. The tenant did not pay the required rental payment for arrears, or dispute of the notice within the 5 day period set out in the Notice (that is, by June 11, 2016). As a result, the tenant was conclusively

presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act. The landlord subsequently extended the tenancy by virtue of the acceptance of the subsequent payments of rent in July and August, each of which were specifically accepted on a use and occupation basis, and not as a reinstatement of the tenancy. The effective date of the tenancy has therefore become August 31, 2016, and the landlord has established a right to possession on that date.

There are no rental arrears, but as the landlord is successful with a portion of this application, the landlord is entitled to recover the \$100.00 filing fee from the tenant. The landlord may retain the sum of \$100.00 from the security deposit in satisfaction of this award.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective on the 31st day of August, 2016. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord is entitled to an award of \$100.00, representing recovery of the filing fee. I order, pursuant to section 38(1)(d) that this sum be retained from the tenant's security deposit.

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: August 22, 2016

Residential Tenancy Branch

