



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 MNDC FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") to obtain an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee.

An agent for the named landlord company (the "agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide her evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The agent testified that the Notice of Hearing, Application and documentary evidence was served on the tenant by registered mail on January 23, 2017. The landlord provided a registered mail tracking number in evidence which has been included on the cover page of this decision for ease of reference. The agent testified that she tracked the package which showed the tenant signed for and accepted the registered mail package on February 2, 2017 which was also confirmed during the hearing via the registered mail tracking website. Based on the above, I find the tenant was served with the Notice of Hearing, Application and documentary evidence on February 2, 2017, the date the tenant signed for and accepted the registered mail package.

Preliminary and Procedural Matter

During the hearing, the agent requested to withdraw the landlord's monetary claim for unpaid rent and loss of rent, and proceed at this hearing with a request for an order of

possession only. I find that such a request does not prejudice the tenant and as a result, the agent was permitted to withdraw the landlord's monetary claim. As a result, the landlord is at liberty to re-apply for a monetary claim. I note that the agent's decision does not extend any applicable timelines under the *Act*.

Issue to be Decided

- Is the landlord entitled to an order of possession for unpaid rent or utilities?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on September 1, 2014. The tenant's rent is subsidized. At the start of the tenancy, the tenant's portion of the monthly rent paid via income assistance was \$520.00 and increased with more occupants in the rental unit to \$937.00 not including parking fees.

The agent confirmed service of the 10 Day Notice for Unpaid Rent or Utilities (the "10 Day Notice") dated January 6, 2017, by posting to the tenant's door on January 6, 2017. The 10 Day Notice included an effective vacancy date of January 16, 2017 and indicated that \$845.00 in unpaid rent was owed as of January 1, 2017. The tenant did not dispute the 10 Day Notice and did not pay the amount indicated as owing within five days of receiving the 10 Day Notice.

The agent testified that a receipt for "use and occupancy" was issued when money was paid for the February 2017 via income assistance. The agent affirmed that the landlord was not reinstating the tenancy but would accept an order of possession effective February 28, 2017 at 1:00 p.m. as a result.

The landlord submitted the tenancy agreement, 10 Day Notice, tenant ledger, and registered mail receipt in evidence.

Analysis

Based on the undisputed documentary evidence and undisputed oral testimony provided by the agent during the hearing, and on the balance of probabilities, I find the following.

Order of possession - I find that the tenant failed to pay the rent arrears indicated as owing or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice. The

effective vacancy date of the Notice is listed as January 16, 2017, which automatically corrects under section 53 of the *Act* to January 19, 2017. I find the tenant is conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the corrected effective vacancy date of the 10 Day Notice, which was January 19, 2017. The tenant continues to occupy the rental unit. Therefore, I grant the landlord an order of possession effective **February 28, 2017 at 1:00 p.m.**

I do not grant the recovery of the cost of the filing fee as a portion of the landlord's application was withdrawn during the hearing.

Conclusion

The landlord has been granted an order of possession effective February 28, 2017 at 1:00 p.m. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

I find the tenancy ended on January 19, 2017 and that the tenant has been over-holding the rental unit since that date.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 15, 2017

Residential Tenancy Branch