



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO VANCOUVER HOUSING CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This hearing deal with the landlord's application pursuant to the Residential Tenancy Act (the "Act") for:

- an Order of Possession for cause pursuant to section 55;
- a Monetary order for unpaid rent pursuant to section 67; and
- recovery of the filing fees of this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The corporate landlord was represented by its agent BH (the "landlord").

As both parties were in attendance I attempted to confirm service. The tenant disputed receipt of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"). The tenant confirmed receipt of the landlord's application for dispute resolution and evidence. The tenant said that she had not served any evidence of her own. The landlord testified that the 1 Month Notice was served on the tenant by posting on the rental unit door on April 26, 2017. The landlord submitted into written evidence a Proof of Service form which indicates the landlord posted the 1 Month Notice in the presence of the building manager who acted as a witness. I find that pursuant to sections 88 and 90 of the Act, the 1 Month Notice was deemed served on April 29, 2017, three days after posting.

At the At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed additional rent has come due and the tenant has made some payments. The landlord said the current rental arrears is \$1,498.00. Pursuant to

section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure, as additional rent becoming due is reasonably foreseeable, I amend the landlord's Application to increase the landlord's monetary claim from \$1,082.00 to \$1,498.00.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary Order as claimed?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The parties agreed on the following facts. This periodic tenancy began in April, 2011. The current monthly rent is \$908.00 payable on the first of each month. A security deposit of \$388.50 was paid at the start of the tenancy and is still held by the landlord.

The landlord said that the tenant has been repeatedly late in paying the full monthly rent. The landlord testified that the tenant did not pay the full rent owing for November and December, 2016, January, February, and March, May and June, 2017. The landlord submitted into written evidence a copy of the tenant ledger showing the rental arrears. The landlord testified that the tenant issued some payments which were accepted for use and occupancy only. The landlord submitted into written evidence copies of the receipts issued to the tenant indicating that payment did not reinstate the tenancy and were accepted for use and occupancy only. The landlord testified that the current rental arrears is \$1,498.00.

The tenant testified that due to circumstances she found it difficult to pay the full monthly rent by the first of each month and began making partial bi-weekly payments. The tenant said that this was not discussed with the landlord. The tenant said that her records show that she made additional payments of \$500.00 on April 21, 2017 and \$650.00 on July 7, 2017 so that the rental arrears is \$398.00. The tenant said that payment was made by money order. The tenant said that she has no records of the \$500.00 payment but has receipts for the \$650.00 order. The tenant did not submit any documents into written evidence showing the payments.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant must, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch or the tenancy ends on the effective date of the 1 Month Notice. I accept the evidence of the parties that the tenant has not filed an application for dispute resolution within the allotted time in response to the landlord's 1 Month Notice.

Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy will end on the effective date of the 1 Month Notice, May 31, 2017. I find that the 1 Month Notice complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provides the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. While the tenant testified that she did not receive the 1 Month Notice, I find that the landlord served it in a manner accepted by the *Act*, to the address of the tenant. Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55. The landlord testified that he is seeking an Order of Possession effective August 31, 2017. I issue an Order of Possession effective on that date.

I accept the landlord's evidence that the total amount of arrears for this tenancy is \$1,498.00. I do not find that the tenant's evidence that additional payments were made to the landlord to be supported in the evidence. I issue a monetary award for unpaid rent owing of \$1,498.00 as at August 16, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$388.50 from the tenant's security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlords effective **12:00pm on August 31, 2017**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the amount of \$1,209.50 under the following terms:

Item	Amount
Rent Arrears	\$1,498.00
Filing Fee to Landlord	\$100.00
Less Security Deposit	-\$388.50
TOTAL	\$1,209.50

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: August 16, 2017

Residential Tenancy Branch