



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BLUE MOUNTAIN SENIORS HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC/MNRL/FFL

Introduction

On May 14, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") requesting an Order of Possession for the rental unit, a Monetary Order for unpaid rent and to recover the cost of the Filing Fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 24-minute hearing. The Landlord testified that she personally served the Tenant with the Notice of Hearing and her evidence package on May 24, 2018, by hand delivering a copy to the Tenant at the rental unit. I find that the Tenant has been duly served with the Notice of Hearing in accordance with Section 89 and 90 of the Act.

The Landlord was provided the opportunity to present her affirmed testimony and evidence and to make submissions at the hearing. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Should the Landlord receive an Order of Possession for the rental unit?
Should the Landlord receive a Monetary Order for unpaid rent?
Should the Landlord be reimbursed for the cost of the Filing Fee?

Background and Evidence

The Landlord provided the following undisputed evidence:

The month to month tenancy began on July 15, 2017. The \$715.00 monthly rent was due on the first of each month. The Landlord collected and still holds a security deposit of \$350.00.

The Tenant has had difficulty paying his rent on time since the beginning of the tenancy. On October 19, 2017, the Landlord sent a letter to the Tenant regarding late rent. The Landlord showed patience with the Tenant in January and February of 2018 as they knew the Tenant was working with a lawyer and counsellor to rectify the late payment of rent issues. On February 16, 2018, the Landlord received \$400 towards February rent.

The Landlord received partial rent for March 2018. On April 4, 2018, the Landlord issued a One Month Notice to End Tenancy (the "Notice") as the Tenant was repeatedly late paying rent. The Landlord taped the Notice to the Tenant's front door. The effective vacate date on the Notice was for May 10, 2018.

The Landlord provided a breakdown for the outstanding unpaid rent:

Item	Amount
Unpaid March 2018 Rent	\$530.00
Unpaid April 2018 Rent	715.00
Unpaid May 2018 Rent	715.00
Unpaid June 2018 Rent	715.00
Total Claim for Unpaid Rent	\$2,675.00

The Landlord testified that the Tenant is still living in the rental unit, has not paid rent and is requesting an Order of Possession for the rental unit and a Monetary Order for the unpaid rent.

Analysis

Section 47(4) of the Act states that a Tenant may dispute a Notice by making an Application for Dispute Resolution within 10 days after the date the Tenant receives the Notice. Section 47(5) of the Act states that if a Tenant who has received a Notice does not make an Application for Dispute Resolution in accordance with Subsection (4), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

Sections 53 and 68 of the Act provide me with authority to amend a Notice to End Tenancy. In this case, the Notice contains the effective vacancy date of May 10, 2018. A Notice to End Tenancy for Cause must end the tenancy effective on a date that is not earlier than one month after the date the Notice is received, and the day before the day in the month that rent is payable under the tenancy agreement. Therefore, I amend the effective vacancy date of the Notice to May 31, 2018.

In accordance with Section 88 and 90 of the Act, I find that the Notice was deemed received 3 days after the Notice was posted on the Tenant's door; therefore, deemed received on April 7, 2018. As there is no evidence before me that the Tenant applied for Dispute Resolution within 10 days or applied for more time to cancel the Notice, I find that the Tenant is conclusively

presumed to have accepted the end of his tenancy on the amended effective vacancy date of the Notice, being May 31, 2018.

As the Tenant is still living in the rental unit, beyond the end of his tenancy, I find that the Landlord should receive an Order of Possession for the rental unit.

I accept the Landlord's undisputed testimony that the Tenant has been repeatedly late in paying his rent and that there is \$2,675.00 of outstanding unpaid rent. I find the Landlord should receive a Monetary Order for unpaid rent.

The Landlord's Application has merit and the Landlord should be reimbursed the \$100.00 for the Filing Fee.

Conclusion

I am granting the Landlord an Order of Possession to be effective two days after notice is served on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Landlord has established a monetary claim, in the amount of \$2,775.00, which includes \$2,675.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the Act, I authorize the Landlords to keep the Tenant's security deposit of \$350.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a Monetary Order for the balance of \$2,425.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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: July 04, 2018

Residential Tenancy Branch