



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding Vancouver Native Housing
Society and [tenant name suppressed to protect
privacy]

DECISION

Dispute Codes OPC, OPQ, MNDC, MNSD, 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 of possession - Section 55;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and some of the Landlord’s evidence (the “Materials”) by registered mail on July 5, 2019 in accordance with Section 89 of the Act. The Landlord provided the postal tracking number for this registered mail service as set out on the cover page of this Decision. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed.

Given the evidence of registered mail I find that the Tenant is deemed to have received the Materials on July 10, 2019. I also accept the Landlord’s evidence that the Tenant was served with the Landlord’s remaining evidence by registered mail on August 1, 2019. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

The Landlord's application indicates that the claim for compensation is in relation to matters that occurred during the tenancy that are not related to the end of the tenancy. The Landlord confirms that the Tenant is still residing in the unit.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the monetary claim is not related to the matter of whether the tenancy will end I dismiss this claim with leave to reapply.

As the tenancy had not ended I find that the Landlord has made its claim to retain the security deposit too early and I therefore dismiss this claim with leave to reapply.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on April 1, 2007. Subsidized rent of \$320.00 is currently payable on the first day of each month. At the outset of the tenancy the Landlord collected \$311.00 as a security deposit. On May 27, 2019 the Landlord served the Tenant with a two month notice to end tenancy (the "Notice") by posting the Notice on the door. The effective date of the Notice is set out as July 31, 2019, is signed and dated by the Landlord, sets out the rental unit address and is on the approved form. The reason for the Notice is that the Tenant no longer qualifies for the subsidized unit. The Tenant failed to provide proof of income documentation required to establish the rental subsidy amount. The Tenant also failed to provide the identification of the persons residing in the unit along with those persons' relationship to the Tenant. The Tenant has paid rent for August 2019 and the Landlord requests an order of possession for August 31, 2019.

Analysis

Section 49.1(5) of the Act provides that a tenant may dispute a notice ending the tenancy of a subsidized rental unit by making an application for dispute resolution within 15 days after the date the tenant receives the notice. Section 90(c) of the Act provides that a document posted on the rental unit door is deemed to be received on the 3rd day after it is posted. Based on the undisputed evidence that the Notice was posted on the door on May 27, 2019 I find that the Notice was deemed received by the Tenant on May 30, 2019 and that the Tenant had until June 15, 2019 to dispute the Notice.

Section 55(2) of the Act provides that 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, a landlord may request an order of possession. Based on the undisputed evidence that the Tenant did not dispute the Notice by making an application for dispute resolution, as the time for making that application has expired, as the Tenant has not moved out of the unit, and as the Notice complies in form and content, I find that the Landlord is entitled to the order of possession as requested.

As the Landlord's application has been successful on the primary matter of the ending of the tenancy, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee and I order the Landlord to deduct this amount from the security deposit of \$311.00.

Conclusion

The Landlord's claims for compensation and to retain the security deposit are dismissed with leave to reapply.

I grant an Order of Possession to the Landlord effective 1:00 p.m. on August 31, 2019.

I order the Landlord to deduct \$100.00 from the security deposit of \$311.00 in full satisfaction of the claim.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: August 22, 2019

Residential Tenancy Branch