



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding The New Vista Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on April 28, 2013, the tenant did not participate in the conference call hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on or about August 1, 1998. At the material time, rent in the amount of \$1,064.00 was payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$450.00.

Throughout the tenancy, the tenant's rent had been subsidized, but effective July 2012, the tenant lost her eligibility for the subsidy and was responsible for the full amount of rent. The tenant failed to pay the full amount of rent in most months from July 2012 – March 2013 and by the time the landlord served the tenant with a notice to end tenancy in March, the tenant had accumulated \$3,302.00 in rental arrears.

On March 14, 2013, the landlord served on the tenant a 10 day notice to end tenancy for unpaid rent. The landlord testified that the tenant failed to pay the arrears and further failed to pay sufficient rent in the months of April and May. The landlord acknowledged having received \$570.00 from the Ministry of Employment and Income Assistance in each of the months of April and May and testified that those payments were accepted for use and occupancy only.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant had accumulated significant rental arrears and on March 13, 2013 was served with a notice to end tenancy for non-payment of rent. As the notice was served by posting to the door of the rental unit, the Act deems that the tenant received the notice 3 days later on March 16, 2013. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the landlord is entitled to recover the \$3,302.00 in unpaid rent for the months of July – March inclusive, \$494.00 in loss of income for April, \$494.00 in loss of income for May and the \$50.00 filing fee paid to bring this application for a total entitlement of \$4,290.00. I order that the landlord retain the \$450.00 security deposit and the \$54.78 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3,785.22. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$3,785.22. The landlord may retain the 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: May 23, 2013

Residential Tenancy Branch

