



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPC, MND, MNSD, MNDC

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 damage to the unit - Section 67;
3. A Monetary Order for compensation - Section 67; and
4. An Order to retain the security deposit - Section 38.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail on May 9, 2014 in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions. During the hearing the Landlord withdrew the claim for damages to the unit as the tenancy has not yet ended.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to compensation?

Is the Landlord entitled to retention of the security deposit?

Background and Evidence

The tenancy started on November 1, 2008. On March 20, 2014 the Landlord served the Tenant with a one month notice to end tenancy for cause (the “Notice”) by sending it

registered mail. The effective date of the Notice is April 30, 2014. The Tenant is still in the unit and has not disputed the Notice. The Landlord states that they collected rent for May and June 2014 but did not inform the Tenant that they were still seeking an end of the tenancy. The Landlord states that the Tenant has not picked up any registered mail sent by the Landlord. The Landlord states that the Tenant is an untreated schizophrenic, with no case worker and they have made arrangements to move the Tenant into another unit with a different Society at the end of June or early July 2014. The Landlord states that the order of possession is really not necessary given the move arrangements being made.

Analysis

A tenancy may be considered to be reinstated where a landlord has accepted rent after the effective date of the notice to end the tenancy. In this case the Landlord accepted two months of rent past the effective date of the Notice without any indication to the Tenant that the end of the tenancy was still being pursued. This implies a reinstatement of the tenancy. As the Landlord made no effort to correct this implication, such as issuing a receipt for use and occupancy only or speaking to the Tenant directly, I find that the Landlord has reinstated the tenancy. I am also deeply concerned that the Tenant has not picked up any registered mail. I take this to include the Notice that was sent by registered mail. I also consider that the Landlord equivocated about whether an order of possession was required. Given the above, I find that the Notice is no longer valid or effective and I dismiss the Landlord's claim for an order of possession. As the tenancy has not ended, I find that the Landlord's claim for retention of the security deposit has no merit at this point and I dismiss this claim with leave to reapply after the end of the tenancy. As no evidence was provided in relation to the compensation claimed and considering that this claim may have been made on in relation to damages to the unit, I dismiss this claim with leave to reapply when the tenancy ends.

Conclusion

The Landlord's claim for an order of possession is dismissed. The Landlord's claim for retention of the security deposit and compensation is dismissed with leave to reapply.

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: June 26, 2014

Residential Tenancy Branch

