



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: OPC and FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession and recovery of the filing fee. Both parties appeared at the hearing and had an opportunity to be heard and respond to the other party's submissions.

Issue(s) to be Decided

1. Whether the landlord is entitled to obtain an Order of Possession.
2. Award of the filing fee.

Background and Evidence

From the evidence before me, I make the following findings. The parties participated in a previous dispute resolution hearing (file no. 724954). The Dispute Resolution Officer ordered that the tenancy would end effective January 31, 2009. The landlord did not request an Order of Possession during that dispute resolution proceeding and has made this application in order to obtain an Order of Possession effective January 31, 2009.

The tenant testified that she needs more time to sell her manufactured home. The tenant testified that the home is not currently advertised for sale; however, she had been successful in finding prospective purchases privately. The tenant stated that the landlord had not approved the prospective purchasers as tenants. The tenant testified that her manufactured home cannot be moved due to its age and that there are not any

openings in manufactured home parks in the Nanaimo area with the exception of one that was too small to accommodate her addition and deck.

The tenant's witness testified that he was interested in purchasing the manufactured home for his family member; however, discussions with the landlord took place only a few days ago.

The landlord was of the position that the tenant has already been granted an additional month by way of the previous dispute decision and the landlord has another tenant lined up to take the site currently occupied by the tenant. The landlord was also of the position that he is familiar with firms that move manufactured homes and that he is unaware of any reason why the tenant's home cannot be moved off the property. The landlord did not consent to extending the effective date of the Order of Possession beyond January 31, 2009, the date the tenancy ends.

The tenant questioned the landlord's statement concerning the landlord having another tenant lined up since the landlord had offered to let her remain in exchange for increased rent. The tenant objected to having to pay increased rent.

Analysis

As the parties were informed at the hearing, I do not have the authority to change a decision previously issued by another Dispute Resolution Officer. Accordingly, this tenancy will end January 31, 2009 in accordance with that officer's decision. If the tenant chooses to enter another tenancy agreement with the landlord I do not have the authority to influence the amount of rent agreed upon in the new tenancy agreement. Ultimately, if the landlord is willing to enter in to a new tenancy with the tenant, the new terms would have to be mutually agreed upon. If mutual terms cannot be reached, the tenant will have to vacate the rental site on January 31, 2009.

The landlord is requesting that he be granted the order to give effect to his right to regain possession of the rental site when the tenancy legally comes to an end. While I am not unsympathetic to the tenant's situation, I do not find that I have the authority to force the landlord to accept an Order of Possession with an effective date later than the date the tenancy ends. Since the landlord did not consent to extending the effective date, I grant the landlord's request for an Order of Possession effective January 31, 2009 under sections 48 and 55 of the Act.

The landlord is provided with this decision an Order of Possession effective January 31, 2009 for service upon the tenant. The Order of Possession may be enforced through The Supreme Court of British Columbia.

The landlord was aware that an Order of Possession could have been requested at the previous dispute resolution proceeding yet the request was not made at that time. Therefore, I do not grant the landlord's request to recover the filing fee for this application from the tenant.

Conclusion

The landlord is provided with an Order of Possession effective January 31, 2009.

January 14, 2009

Date of Decision

Dispute Resolution Officer