

Decision

Dispute Codes:

MNR

OPR

FF

Introduction

I have been delegated the authority under Section 9.1 of the *Manufactured Home Park Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This Dispute Resolution Hearing was convened to deal with an Application by the Landlord for: an Order of Possession; a monetary order for unpaid rent; and to recover the filing fee from the Tenant for the cost of this application.

Preliminary Matters

At the onset of the Hearing, it became apparent that the Tenant’s last name had been misspelled on the Notice to End Tenancy and the Landlord’s Application for Dispute Resolution. Pursuant to section 64(3)(c) and with the consent of the Tenant, I amended the Landlord’s Application to reflect the proper spelling of the Tenant’s last name.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

- whether the Landlord is entitled to an Order of Possession for unpaid rent;
- whether the Landlord is entitled to a monetary order for unpaid rent; and

- whether the Landlord is entitled to recover the filing fee of \$50.00 for the cost of the Application from the Tenant.

Background and Evidence

The Landlord's agent SH testified that she served the Tenant with the Notice to End Tenancy by way of personal service to the Tenant at the Tenant's residence on December 4, 2008.

The Landlord's agent SH testified that she served the Tenant with the Notice of Dispute Resolution and Notice of Hearing package, by way of personal service to the Tenant at the Tenant's residence on January 10, 2009.

The Landlord's agent SH testified that there was a payment made on January 22, 2009 towards arrears in rent, and the balance now owing is \$503.00 rather than \$805.00 as was originally claimed.

The Tenant agreed that she is in arrears in the amount of \$503.00, but that she thought she was justified in withholding rent because of problems she was having with lack of repairs to her unit. The Tenant also stated that the Landlord had changed the keys to her unit's front entrance and to the garage and that she didn't get replacement keys until the following day. The Tenant stated that as a result, she spent the night outside. The Tenant further stated that the Landlord had double charged her mother for rent for the months of July, August and September.

The Tenant stated that she had not commenced proceedings to dispute the Notice to End Tenancy within 5 days of receiving the Notice and that she was doing so now.

Analysis

I am satisfied that the Tenant was served with the Landlord's Application for Dispute Resolution and the hearing package.

A tenant must pay rent when it is due under the Tenancy Agreement, unless the Tenant has a right to deduct all or a portion of the rent. Copies of the relevant sections of the Act, sections 26 and 33, follow my decision. A Tenant can not deduct or withhold rent when it is due other than in accordance with these sections of the Act.

The Tenant did not pay the rent arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice. She is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy, in this case on December 14, 2008.

The Landlord is therefore entitled to an Order of Possession.

The Landlord has been successful in its Application and is therefore entitled to recover the cost of filing the Application from the Tenant.

I find that the the Landlord has established a total monetary claim of \$553.00 calculated as follows:

Unpaid rent	\$503.00
Recovery of the filing fee for today's application:	<u>\$ 50.00</u>
TOTAL	\$553.00
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Conclusion

I grant the Landlord a monetary order under section 67 of the Act for \$553.00. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

Under section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

February 11, 2009
