



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, OPC, OPB, MNR, FF

Introduction

This matter dealt with an application by the landlord for an Order of Possession for unpaid rent, for cause and for a breach of the agreement pursuant to Section 48 of the Act and a Monetary Order for unpaid rent pursuant to Section 60, and to recover the filing fee for this proceeding.

Service of the hearing documents was done in accordance with section 81 of the *Act*. They were posted on the tenants' door on April 07, 2009. The tenant confirmed she had received them.

Both parties appeared, gave their testimony, were provided the opportunity to present evidence, make submissions and to cross-examine the other party and witnesses. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Did the tenant break an agreement with the landlord?
- Has the landlord established that there is sufficient cause to end the tenancy?
- Whether the landlord is entitled to an Order of Possession?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?

Background and Evidence

This tenancy started on April 1, 2006 when the landlord purchased the Park from the tenant. The pad rent at the beginning of 2009 was \$232.50 per month and this increased to \$241.10 on May 01, 2009. Rent was due on the 1st of each month.

Residential Tenancy Branch
Ministry of Housing and Social Development

The landlord testifies that the tenant paid rent in January, 2009 and has not paid any rent since that time the total amount of rent owed by the tenant is \$1,179.70. The landlord issued a 10 day Notice to End tenancy for unpaid rent on April, 07, 2009.

The landlord testifies that the tenant has also withheld money from rent for May, July and December, 2007 of \$215.00 per month, January, 2008 of \$215.00 and February 2008 of \$40.00.

The landlord has also applied to End the tenancy for cause and because the tenant breached an agreement with the landlord. As the landlord has not issued the tenant with a notice for either of the reasons cited then they are dismissed without leave to reapply.

The landlord requests an Order of possession to take effect from July 10, 2009. The landlord has decided to withdraw his Monetary Order to recover the unpaid rent.

The tenant does not dispute that she owes rent for February, March, April, May and June, 2009. However she does dispute the rent the landlord says she withheld for the months in 2007 and 2008. The tenant claims that this was part of an agreement with the landlord when the purchase of the park was completed for her share of an additional charge for a sewer system. As the landlord has withdrawn his monetary claim this is no longer an issue for the hearing today. The tenant and her witness raised issues that are unrelated to this claim and although I have heard their complaints against the landlord they do not form part of my decision and I have advised the tenant if she has any issues she should raise them by applying for Dispute Resolution herself.

Analysis

The tenant has agreed that she owes rent to the landlord. The *Manufactured Home Park Act* section 20(1) states that a tenant must pay rent when it is due, whether or not the landlord complies with the Act, the regulations or tenancy agreement.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Order of Possession – I find that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 39 of the *Manufactured Home Park Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 39(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

Recovery of the Filing Fee - \$50 – As the landlord is successful in his application he is entitled to recover the filing fee from the tenant.

The landlord does not want to pursue his monetary claim against the tenant for unpaid rent.

Conclusion

An Order of Possession has been issued to the landlord. A copy of the Orders must be served on the tenant and the tenant must vacate the rental unit **on or before July 10, 2009**. The Order of Possession may be enforced in the Supreme Court of British Columbia.

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 10, 2009.

Dispute Resolution Officer