

## **Decision**

### **Dispute Codes:**

OPC

### **Introduction**

This is the Landlords' application for an Order of Possession for Cause.

I reviewed the evidence provided prior to the Hearing. The parties gave affirmed testimony and the Hearing proceeded on its merits.

### **Issues to be Decided**

- Are the Landlords entitled to an Order of Possession based on the One Month Notice to End Tenancy for Cause issued September 27, 2009?

### **Background and Evidence**

The Landlord testified that she and a witness served the Tenants with the Notice to End Tenancy, by posting the Notice on the Tenants' door on September 27, 2009 at approximately 3:00 p.m. The Tenants stated that they received the Notice on that day.

The Landlord testified that she posted the Notice of Hearing Documents to the Tenants' door on November 3, 2009. The Tenants stated that they received the Notice of Hearing documents on November 3, 2009.

The Tenants testified that they did not file an application to cancel the Notice to End Tenancy for Cause.

### **Analysis**

Based on the testimony of both parties, I am satisfied that the Tenants were served with the Notice to End Tenancy in accordance with the provisions of Section 81(g) of the Act. I am also satisfied that the Tenants were served with the Landlord's application for an Order of Possession in accordance with the provisions of Section 82(2)(d) of the Act.

Sections 40(4) and 40(5) of the Act state:

**Landlord's notice: cause**

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(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the manufactured home site by that date.

The Tenants did not file an application for dispute resolution with respect to the Notice to End Tenancy, and therefore are conclusively presumed to have accepted that the tenancy ended on October 31, 2009.

The Landlord is entitled to an Order of Possession. The Notice is effective October 31, 2009, and therefore the Landlords would ordinarily be entitled to an Order of Possession effective two days after service of the Notice upon the Tenants. However, the Landlord asked for the Order to be effective 1:00 p.m., December 31, 2009, and I make the Order effective on that date.

## **Conclusion**

I hereby grant the Landlord an Order of Possession **effective 1:00 p.m., December 31, 2009**. This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: November 26, 2009.

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