

DECISION

Dispute Codes: OPR, MNR and FF

Introduction

This application was brought by the landlord seeking an Order of Possession of the Manufactured Home Park site pursuant to a 10-day Notice to End Tenancy for unpaid rent served by registered mail on September 14, 2009 to the next of kin of the deceased tenant. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on November 7, 2009, the tenant's next of kin did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This matter requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order against the estate of the deceased tenant.

Background and Evidence

This tenancy began on or about November 1, 1992. Pad rent is \$436 per month.

During the hearing, the landlord gave evidence that the tenant had passed away in January of 2009 without a will. However, the Coroner had advised the landlord that the tenant's son was next of kin. Despite having been provided with the Notice to End Tenancy and the Notice of Hearing, he has made no contact with the landlord.

The landlord gave further evidence that it was the expressed opinion of the Coroner and of herself that the 40-year-old manufactured home was derelict, infested with mold and rodents, and unsuitable for sale or relocation. She stated that all property of value had been removed from the home.

The landlord therefore seeks the Order of Possession to enable dismantling and disposal of the structure.

The landlord also stated that no pad rent had been paid from May 1, 2009 and requested a Monetary Order for the months from May through to November 2000.

The Notice to End Tenancy set an end of tenancy date of November 1, 2009

Analysis

Section 39 of the *Act* provides that a landlord may issue a 10-day Notice to End Tenancy on any day after unpaid rent is due.

The tenant may render the notice of no effect by paying the overdue rent within five days of receiving it or may make application within five days to have it set aside.

In this instance, I find that the estate of the deceased tenant has been informed of the Notice to End through the next of kin and that the rent remains unpaid and no application has been filed to contest it.

Therefore, I find that the landlord is entitled to an Order of Possession effective two days from service of it upon the tenant and that service on the next of kin will constitute service on the estate of the deceased tenant.

I further find that the landlord is entitled to a Monetary Order for the seven months of unpaid rent from May 1, 2009 to November 30, 2009 ($7 \times \$436 = \$3,052$) plus \$50 in recovery of the filing fee for this proceeding.

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession, to take effect two days from service of it on the tenant and a Monetary Order for \$3,102.00.

The Order of Possession is enforceable through the Supreme Court of British Columbia and the Monetary Order is enforceable through the Provincial Court of British Columbia.