



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee for this proceeding.

At the beginning of the hearing the Landlord confirmed that the Application did not contain the correct or full name of the Landlord and as a result, the style of cause is amended to reflect the correct name.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?

Background and Evidence

This tenancy started on September 1, 2006. Rent is \$240.24 per month payable in advance on the 1st day of each month. The Landlord said the Tenant did not pay rent for September and October 2009 when it was due and as a result, on October 19, 2009 the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent dated October 19, 2009 by registered mail.

The Tenant admitted that he received the 10 Day Notice and that he has not paid rent for September, October, November and December 2009 and January 2010.

Analysis

Section 39(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the overdue rent or apply for dispute resolution. If a Tenant fails to do either of these things, then under section 39(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the manufactured home site at that time.



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According to the Canada Post online tracking system, the Tenant received the 10 Day Notice on October 30, 2009. Consequently, the Tenant would have had to pay the amount on the Notice or apply to dispute that amount no later than November 4, 2009.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 48(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

As the Landlord did not include a claim for the unpaid rent in his application, no order will be made. However, the Landlord will receive a monetary order for \$50.00 representing the amount paid by him for the filing fee for this proceeding.

Conclusion

An Order of Possession to take effect 48 hours after service of it on the Tenant and a Monetary Order in the amount of \$50.00 has been issued to the Landlord and copies of them must be served on the Tenant. The Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) 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: January 05, 2010.

Dispute Resolution Officer