



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent as well as to recover the filing fee for this proceeding.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?

Background and Evidence

This tenancy started approximately 35 years ago. Rent is \$437.00 per month payable in advance on the 1st day of each month. On October 19, 2010, the Landlord served the Tenant in person with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated October 19, 2010. The Landlord said the Tenant has not paid rent for July, August, September and October 2010. The personal representative of the Tenant (S.W.) said the Tenant (estate) is not in a position to pay the rent arrears.

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. I find that the Tenant was served in person with the 10 Day Notice to End Tenancy on October 19, 2010.

I also 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 immediately. I also find that the Landlord is entitled to recover rent arrears in the amount of \$1,748.00 as well as the



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\$50.00 filing fee for this proceeding. The Landlord withdrew its application to recover late payment fees of \$100.00.

Conclusion

An Order of Possession effective immediately and a Monetary Order in the amount of **\$1,798.00** have been issued to the Landlord. A copy of the Orders 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 *Manufactured Home Park Tenancy Act*.

Dated: November 23, 2010.

Dispute Resolution Officer