



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 and to recover the filing fee for this proceeding.

The Landlord's application named the tenant of the manufactured home site as well as the registered owner of the manufactured home as Tenants. However, only the Tenant (G.S.) is named as a party on the tenancy agreement and as a result, the Landlord's application is amended to remove the registered owner (D.T.) as a Tenant. The Landlord's application is also amended to correct the spelling of the Tenant's (G.S.) given name.

The Landlord said he served the Tenant in person on October 29, 2010 and the registered owner of the manufactured home in person on October 30, 2010 with a copy of the Application and Notice of Hearing (the "hearing package"). Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package pursuant to s. 82 of the Act and the hearing proceeded in the Tenant's absence. I also find that the registered owner of the manufactured home has been given notice of these proceedings.

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 some time prior to March 1, 2010 when he signed the tenancy agreement. Pad rent is \$265.00 per month payable in advance on the 1st day of each month.

The Landlord said that the Tenant had rent arrears of \$225.00 for July 2010 and did not pay rent for August, September and October 2010. Consequently, on October 4, 2010, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent dated October 4, 2010 by posting it to the door of his manufactured home. The



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Landlord said the Tenant has not made any payment on the rent arrears since he was served with the 10 Day Notice and now has rent arrears for November 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 rental unit at that time. Under s. 83(c) of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted or on October 7, 2010. Consequently, the Tenant would have had to pay the rent arrears stated on the Notice or apply to dispute that amount no later than October 12, 2010.

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 2 days after service of it on the Tenant. I also find that the Landlord is entitled to recover rent arrears in the amount of \$1,285.00 (for the period July to November 2010), 2 late fees of \$25.00 each (pursuant to a term of the tenancy agreement to that effect) and the \$50.00 filing fee for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of **\$1,385.00** 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 25, 2010.

Dispute Resolution Officer