

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent or utilities. Both parties participated in the conference call hearing.

As the tenancy entails both a manufactured home as well as the pad upon which it sits, the legislation that governs this tenancy is the Residential Tenancy Act. The fact that the parties have attended small claims court regarding other concerns associated with this sale does not preclude me from having jurisdiction.

Issues to be Decided

Is the landlord entitled to any of the above under the Act.

Summary of Background and Evidence

The landlord testified that the tenants owe the landlord 4 month's rent for the period of June through September 2009 inclusive at \$750.00 per month for a total of \$3000.00. The landlord is also claiming \$20.00 in fees from past hearings in this application. The landlord contends that it was established under file 738165 that a tenancy was in place and that the tenant was to continue to pay rent as of June 1, 2009 in order for the tenancy to continue. With the establishment of the tenancy in 738165 the landlord obtained and served an order of possession on the tenant. As of October 1, 2009 the tenant no longer resided on the property.

'Given the tenant's position that this tenancy is a month to month tenancy, with monthly rent of \$750.00, and given his acknowledgement in the Bill of Sale of June 1, 2009, the correct route for the tenant to have followed, had he wished the tenancy to continue, would have been to have tendered monthly rent to the landlord commencing June 1, 2009. Although the notice alleges a higher amount due, under the facts before me the tenant knew or should have known that at minimum, rent of \$750.00 was payable to the landlord from June 1, 2009 forward.'

The tenant testified he did enter into an agreement to sell the manufactured home on February 12, 2008 that included the following wording: "Rent is free for 13 (thirteen) months (value of \$750.00 per month) – maximum value of \$9,000.00. Rent includes septic and water but does not include gas and electricity." The tenant stated that an error had been made on the prior decision regarding the bill of sale dated February 12, 2008 and the bill of sale 'Manufactured Home Act' dated January 6, 2009 which was executed for registration purposes. The tenant contends that the bill of sale

'Manufactured Home Act' dated January 6, 2009 which was executed for registration purposes would have been the start date of the 13 months of free rent therefore the tenant was not required to pay rent for the period of June through September 2009 and does not owe unpaid rent for this time period.

Analysis

On February 12, 2008 the tenant entered into a sales agreement for the manufactured home that included the following wording: "Rent is free for 13 (thirteen) months (value of \$750.00 per month) – maximum value of \$9,000.00. On June 1, 2009, the tenant and his wife as "sellers", executed a formal Bill of Sale for the subject manufacture home for registration purposes. The landlord was named as the purchaser on the June 1, 2009 Bill of Sale and it was determined that as of June 1, 2009 the tenant would have been required to continue to pay rent in order for their tenancy to continue. The tenant remained on the property without paying rent June through September 2009 inclusive at \$750.00 per month for a total of \$3000.00.

Based on the documentary evidence and undisputed testimony of both parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for a monetary order for unpaid rent. The landlord is not entitled to recovery of filing fees from prior hearings.

I find that the landlord has established a claim for \$3000.00 in unpaid rent. The landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$3000.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

A monetary order in the amount of **\$3050.00** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) 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 *Residential Tenancy Act*.

Dated: December 30, 2010

Dispute Resolution Officer