



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the conference call hearing and gave affirmed testimony, however, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on November 15, 2010, the tenant did not attend the hearing.

All information received and testimony provided has been reviewed and is considered in this Decision.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent or utilities?

Are the landlords entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The landlord's agent testified that rent in the amount of \$450.00 per month is payable in advance on the 1st day of each month. She further testified that the tenant failed to pay rent when it was due, and the landlord applied for dispute resolution, and following a hearing on August 6, 2010 the tenant was ordered to pay the outstanding arrears of

\$1,064.80. She further testified that since that date, the tenant has further failed to pay rent and the arrears now amount to \$1,814.80 to the end of December, 2010, which includes the amount ordered at the previous dispute resolution hearing.

On October 29, 2010 the tenant was served with a 1 Month Notice to End Tenancy for Cause, a copy of which was provided in advance of the hearing. That notice states that the tenant is repeatedly late paying rent, shows a date of issuance of October 29, 2010 and an expected date of vacancy of November 30, 2010. The landlord's agent testified that the notice was personally served on a roommate of the tenant. On November 4, 2010 the agent spoke with the tenant, who confirmed he had received the notice to end tenancy, but stated that he was not moving and had no intention of doing so.

A tenant ledger was also provided in advance of the hearing, and the landlord's agent testified that the tenant has been continually in arrears of rent since February, 2010. On January 22, 2010 the tenant pre-paid a portion of the rent for February, 2010, leaving a balance owing of \$64.80 for February's rent. The tenant further failed to pay rent in the months of March, April, and May, 2010. The landlord received \$400.00 on May 5, 2010 and another \$400.00 on May 21, 2010. The tenant failed to pay rent on June 1, 2010, and the landlord collected \$450.00 on June 23, 2010. No rental payments were made for July, 2010 and the landlord collected \$450.00 on August 4, 2010 and another \$450.00 on August 27, 2010. The tenant further failed to pay rent in the month of September, having paid \$150.00 on September 30, 2010. The tenant again failed to pay rent when it was due in the month of October, and the landlord collected \$450.00 from the tenant on October 29, 2010. The landlord's agent issued a receipt for that payment, a copy of which was provided in advance of the hearing, which shows specifically that the payment is for "Use and Occupancy Only." The tenant has not paid rent for the month of December, 2010.

Analysis

The *Manufactured Home Park Tenancy Act* states that a landlord may serve a tenant with a 1 Month Notice to End Tenancy if the tenant is repeatedly late paying rent. I find

that the tenant was served with the notice to end the tenancy, has failed to dispute the notice to end the tenancy and has therefore presumably accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an Order of Possession.

As for the monetary order, I find that the landlord has established a claim for \$750.00 in unpaid rent in addition to the monetary order received by the landlord dated August 6, 2010. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant an Order of Possession in favor of the landlord. The tenant must be served with the Order of Possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the landlord an order under section 67 for the balance of rental arrears due and the filing fee for the cost of this application, for a total of \$800.00. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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 09, 2010.

Dispute Resolution Officer