



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, MNR, OPR, O, FF

Introduction

This is the Landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent and compensation for damage or loss; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

The Landlord served the Notice of Hearing documents on the Tenant's son, as administrator of the Tenant's Estate.

The Landlord posted the Notice to End Tenancy for Unpaid Rent on the Tenant's door on December 6, 2010.

Preliminary Matter

At the outset of the Hearing, the parties advised that the Tenant had passed away on June 16, 2010. The Tenant's son, LR, testified that he is in the process of probating the Tenant's Will and that he expected to be named administrator or executor in due course. The matter is currently before the Courts.

Based on the testimony of both parties, and pursuant to the provisions of Section 64(2)(b) of the Act, I am satisfied that the Notice of Hearing documents were sufficiently served for the purposes of this Act.

Issue(s) to be Decided

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a Monetary Order for Unpaid rent in the amount of \$2,310.00 and compensation for damage or loss in the amount of \$1,190.00?

Background and Evidence

The Tenant paid rent for the month of June, 2010, but no rent has been paid since then. The current amount owing for pad rent is \$2,310.00. The power was disconnected to the manufactured home at some point in the summer of 2010. In the winter, the pipes in the manufactured home burst.

The Tenant's son lives elsewhere in the Province. The Landlord was concerned that the manufactured home would be destroyed due to mould and moisture damage, so the Landlord and another person spent 3 days with dehumidifiers and fans drying out the manufactured home and cleaning up the floors and disposing of the carpets. The Landlord was concerned that no one would buy a mouldy manufactured and was attempting to keep the manufactured home in reasonable repair so it would be sold faster and the Landlord could re-rent the rental site.

The Landlord seeks an Order of Possession for unpaid rent and indicated that he will be treating the manufactured home as abandoned.

Analysis

Under the Act, the definition of tenant includes the estate of a deceased tenant. Accordingly, reference to the Tenant in this decision includes the estate of the Tenant.

I accept the Landlord's testimony that he posted the Notice to End Tenancy for Unpaid rent on the Tenant's door on December 6, 2010. Service in this manner is deemed to be effected 3 days after posting the Notice. Further to the provisions of Section 39 of the Act, I find that the effective date of the end of tenancy was December 19, 2010. The Landlord is entitled to an Order of Possession and I make that Order effective 2 days after service of the Order upon the Tenant. The Landlord may serve the Tenant with the Order of Possession by posting the Order on the door of the manufactured home at the rental site and it will be deemed to have been served three days after posting.

The Landlord indicated that he considers the Tenant to have abandoned the manufactured home and that he will be dealing with the Tenant's abandoned property in accordance with the provisions of Part 6 of the Manufactured Home Park Tenancy Regulation. The Regulation has provisions for recovery of the Landlord's reasonable costs and the Landlord is at liberty to make a subsequent application for these costs. Therefore, the Landlord's application for a Monetary Order for unpaid rent and compensation is dismissed with leave to re-apply.

The Landlord has been successful in his application for an Order of Possession and is entitled to recover the cost of his filing fee from the Tenant.

Conclusion

I grant the Landlord an Order of Possession **effective two days from service of the Order upon the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord's application for a monetary award for loss of rent and compensation for damage or loss is dismissed with leave to reapply.

I grant the Landlord a Monetary Order in the amount of **\$50.00** against the Tenant, representing recovery of the filing fee. This Order must be served on the Tenant and

may be filed in the Provincial Court of British Columbia (Small Claims Court) 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 *Manufactured Home Park Tenancy Act*.

Dated: January 27, 2011.
