



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

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

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that she mailed the Notice of Hearing documents and copies of her documentary evidence to the Tenant by registered mail, on April 8, 2011, to the manufactured home site. The Landlord provided a copy of the receipt and tracking number in evidence. Section 83 of the Act deems service of documents in this manner to be effected 5 days after mailing the documents. In spite of being deemed served with the documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

Issue(s) to be Decided

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order for unpaid rent for the months of February and March, and loss of revenue for the month of April , 2011?

Background and Evidence

The Landlord testified that the Notice to End Tenancy issued March 11, 2011, was posted to the door of the rental unit on March 11, 2011. The Landlord testified that the Tenant was avoiding telephone calls and would not answer the door.

The tenancy began on November 28, 2008. Current monthly rent is \$409.00, due on the first day of each month. The Tenant owes rent in the amount of \$68.00 for the month of February and has not paid any rent for March, 2011. The Tenant remains in the rental unit, and therefore the Landlord seeks an Order of Possession.

Analysis

I accept the Landlord's testimony that the Tenant was duly served with the Notice to End Tenancy in accordance with the provisions of Section 81(g) of the Act. The Tenant did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Pursuant to the provisions of Section 39(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, the effective end to the tenancy was March 23, 2011.

Therefore, 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.**

Based on the undisputed testimony of the Landlord and the absence of any evidence to the contrary from the Tenant, the Landlord has established its claim for unpaid rent and loss of revenue, as follows:

Unpaid rent for February, 2011	\$68.00
Unpaid rent for March, 2011	\$409.00
Loss of revenue for April, 2011	<u>\$409.00</u>
TOTAL:	\$886.00
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The Landlord seeks late fees for March and April in the amount of \$25.00 per month. The tenancy agreement, a copy of which was provided in evidence, contains a clause for fees for late payments in the amount of \$25.00. Therefore, I allow the Landlord's claim for late fees for the month of March, 2011. The tenancy ended on March 23,

2011, and therefore I dismiss the Landlord's claim for late fees for the month of March, 2011.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

Conclusion

I hereby provide 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.

I hereby provide the Landlord a Monetary Order in the amount of **\$961.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: April 28, 2011.

Residential Tenancy Branch