



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OP, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself, the Application for Dispute Resolution was reviewed, the hearing process was explained to the parties and the parties were provided an opportunity to ask questions in relation to the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence, to cross-examine the other party, and to make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement requires the tenant to pay monthly pad rent of \$258.00 due on the first day of each month.

The landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of May 20, 2011, was served on May 10, 2011, to the male adult who resides with the tenant. The male has paid rent directly to the landlord and in the past he has been issued rent receipts in his name.

The Notice to End Tenancy indicated that the Notice would be automatically cancelled if the landlord received \$1,218.00 within five days of service. The Notice also indicated that the tenant was presumed to have accepted that the tenancy is ending and that the tenant must move out of the rental site by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days or paid the rent due.

The landlord provided a summary of rent owed in 2011:

January	106.00
March	258.00
April	258.00
May	258.00
June	258.00
TOTAL	1396.00

The landlord has claimed late payment fees in the sum of \$20.00 per month from February to June, 2011, inclusive, as provided by the tenancy agreement submitted as evidence.

The landlord requested an Order of possession effective July 15, 2011.

The tenants confirmed that the male occupant had received the Notice ending tenancy on May 10, 2011. The tenants did not dispute that rent was owed as claimed by the landlord.

The male stated that he did not read the Notice and did not understand the obligations on the Notice. The landlord confirmed that 2 pages of the Notice were served on May 10, 2011.

Analysis

As the male has made rent payments and paid rent directly to the landlord I determined that he is a tenant, as defined by the Act. Therefore, I find he was served with Notice ending tenancy on May 10, 2011. Further, I find that the female tenant was served the 10 Day Notice ending tenancy via the adult male with whom she resides, as provided by section 81 of the Act.

Section 39(1) of the Act stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on May 10, 2011, via personal delivery to an adult with whom she resides, I find that the effective date of the Notice is May 20, 2011.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on May 20, 2011, pursuant to section 39 of the Act.

Section 39(4) of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me the tenant has confirmed the amount of rent owed as claimed by the landlord and that she did not dispute the Notice. Therefore; pursuant to section 39(5) of the Act, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the Landlord an Order of Possession that is effective **July 15, 2011, at 1 p.m.**; as requested by the landlord.

I find that the landlord's application has merit, and I find that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

The landlord has been granted an Order of possession that is **effective July 15, 2011, at 1 p.m.** This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for \$1,546.00, which is comprised of \$1,496.00 in unpaid rent from January to June, 2011, inclusive; late fees for that same period in the sum of \$100.00 and filing fee costs in the sum of \$50.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province 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 55(1) of the *Manufactured Home Park Tenancy Act*.

Dated: June 24, 2011.

Residential Tenancy Branch