



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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.

The landlord attended the conference call hearing and gave affirmed testimony however the tenant did not attend. At the outset of the hearing, the landlord stated that the tenant has paid all rental arrears and therefore the application for an Order of Possession for unpaid rent or utilities and the application for a monetary order for unpaid rent or utilities are both withdrawn. The landlord applies for recovery of the \$50.00 filing fee for the cost of this application.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for the cost of this application?

Background and Evidence

The landlord testified that the rental unit is a pad in a manufactured home park. Rent in the amount of \$215.40 per month is payable in advance on the 1st day of each month. The tenant had been in arrears, and the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on April 12, 2011 by posting it to the tenant's door at the manufactured home park. A copy of that notice was provided in advance of the hearing.

The landlord further testified that he served the tenant personally with the Landlord's Application for Dispute Resolution and notice of hearing documents on April 27, 2011. The tenant paid the outstanding rent in 3 instalments during the month of May, 2011.

Analysis

I accept the evidence of the landlord and in absence of any evidence to the contrary, I find that the landlord had cause to issue the notice to end the tenancy and to apply for dispute resolution. I also find that the landlord has withdrawn the application with the exception of recovery of the filing fee, because the tenant has paid the arrears. The evidence before me is that the tenant paid the arrears during the month of May, 2011. The landlord served the notice to end the tenancy by posting it to the door of the manufactured home on April 12, 2011, which is deemed to have been served 3 days later, or April 15, 2011. The tenant then had 5 days to pay the rent in full or dispute the notice, by April 20, 2011. Therefore, I find that had the landlord not withdrawn the application for an Order of Possession, the landlord may have been entitled to an Order of Possession and a monetary order because the tenant did not pay the arrears within 5 days as required by the *Act*.

The *Manufactured Home Park Tenancy Act* states:

60 Without limiting the general authority in section 55 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

In the circumstances, I find that the landlord is entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant a monetary order, pursuant to Section 60 of the *Manufactured Home Park Tenancy Act*, in the amount of \$50.00. 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: May 24, 2011.

Residential Tenancy Branch