



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, CNC, and FF

Introduction

This hearing dealt with cross applications between the parties.

The Landlord filed an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Cause and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution, in which the Tenant has made application for set aside a Notice to End Tenancy for Cause and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

The Landlord attended at the hearing at the scheduled start date of the hearing, which was 10:30 a.m. The Tenant had not attended the hearing by the time it ended at 10:47 a.m.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession and whether either party is entitled to recover the fee for filing the Application for Dispute Resolution, pursuant to sections 48 and 65 of the *Manufactured Home Park Tenancy Act (Act)*.

Background and Evidence

The Agent for the Landlord stated that this tenancy began prior to her assuming ownership of the RV Resort; that she purchased the Resort on June 01, 2011; and that the Tenant is required to pay monthly rent of \$335.00 on the first day of each month.

The Agent for the Landlord stated that the Tenant rents site #69. She stated that the Tenant believes he is renting site #68, however the Landlord submitted photographs that corroborate her statement that the Tenant is renting site #69.

The Agent for the Landlord stated that she posted a One Month Notice to End Tenancy for Cause on the front door of the Tenant's trailer on June 15, 2011. The Notice declared that the Tenant must vacate the rental unit by July 18, 2011.

The One Month Notice to End Tenancy for Cause indicated that the Landlord was ending the tenancy because the tenant or a person permitted on the property has put the landlord's property at significant risk and the Tenant has not done required repairs of damage to the unit/site.

The Tenant filed an Application for Dispute Resolution, in which he applied to set aside this Notice to End Tenancy, on June 21, 2011.

At the hearing the Agent for the Landlord reiterated her request for an Order of Possession.

Analysis

On the basis of the undisputed evidence presented at the hearing, I find that the Tenant had a tenancy agreement that required him to pay monthly rent on the first day of each month.

On the basis of the undisputed evidence presented at the hearing, I find that a One Month Notice to End Tenancy for Cause was posted at the trailer located on the rental site on June 15, 2011, which had a declared effective date of July 18, 2011.

Section 40(2) of the *Act* stipulates that a One Month Notice to End Tenancy for Cause must end the tenancy effective on a date that is not earlier than one month after the date the notice is received and the day before the day in the month that rent is payable under the tenancy agreement. As the Tenant received this Notice in June of 2011 and rent is due on the first of each month, the earliest effective date that the Notice is July 31, 2011.

Section 46 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy is July 31, 2011.

As the Tenant did not appear at the hearing, I find that he failed to diligently pursue the application and I therefore dismiss the Tenant's Application for Dispute Resolution without leave to reapply.

Section 48 of the *Act* stipulates that if a tenant applies to dispute a Notice to End tenancy and, at the time of the hearing, the landlord makes an oral request for an Order of Possession and the director dismisses the tenant's application, the director must grant an Order of Possession.

As I dismissed the Tenants' application to set aside the Notice to End Tenancy for Cause and the landlord request an Order of Possession at the hearing, I find that I must grant an Order of Possession.

As the Landlord's Application for Dispute Resolution has merit, I find that the Landlord is entitled to \$50.00 in compensation for the filing fee paid by the Landlord for this application.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective on July 31, 2011. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I also grant the Landlord a monetary Order in the amount of \$50.00, as compensation for the filing fee paid by the Landlord for this application. In the event that the Tenant does not voluntarily 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 9.1(1) of the *Residential Tenancy Act*.

Dated: July 15, 2011.

Residential Tenancy Branch