



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: **OPR, 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, to retain all or part of the security deposit, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were posted to the tenant's door on October 11, 2011. Within one week, during which the landlord checked the door daily, the papers were removed.

On October 20, 2011, the landlord saw the tenant on the park property and personally served her with the hearing documents, at her rental site, in the afternoon.

Based on the testimony of the landlord I find that these documents are deemed to have been served in accordance with section 89 of the *Act*, effective October 20, 2011; however the tenant did not appear at the hearing.

Preliminary Matter

The landlord was asked to submit a copy of the tenancy agreement; which he did after the hearing concluded.

The application was amended to include unpaid November site rental.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to compensation for unpaid site rent?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement requires the tenant to pay monthly pad rent of \$585.00 due on the first day of each month. The tenancy agreement was signed on March 6, 2011, for a tenancy commencing January 1, 2011. During the hearing the landlord submitted that rent was \$605.00 per month; the tenancy agreement indicated rent was \$600.00 but that was crossed out, initialed and changed to \$585.00.

The landlord believes the tenant owns the manufactured home.

The landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of September 10, 2011, was personally served to the tenant on August 31, 2011, in the afternoon, at the tenant's home.

The Notice to End Tenancy indicated that the Notice would be automatically cancelled if the landlord received \$3,605.00 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 by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The landlord stated that the tenant paid her pad rent late each month from February to May, 2011, inclusive. The tenant has not paid any pad rental since May, 2011.

The landlord stated he occasionally sees the tenant or her boyfriend on the property, but he believes the tenant has vacated the unit.

Analysis

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 September 10, 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 I have no evidence that the tenant exercised either of these rights. 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 2 days after service to the tenant.

I find rent was \$585.00 per month; as indicated in the tenancy agreement signed by the parties. Therefore, I find that the landlord is entitled to compensation for unpaid pad rent from June to November, 2011, inclusive, in the sum of \$3,510.00; the balance of the monetary claim is dismissed.

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 2 days after service to the tenant. 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 find that the landlord has established a monetary claim, in the amount of \$3,560.00 in compensation for unpaid pad rent from June to October, 2011, inclusive and the filing fee costs of \$50.00 paid by the landlord for this Application for Dispute Resolution. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The balance of the monetary claim is dismissed.

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: November 03, 2011.

Residential Tenancy Branch