



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with an Application by the Landlord for an order of possession, a monetary order for unpaid rent, compensation for damage or loss, and to recover the filing fee.

The Landlord and Tenant EH attended the hearing, gave affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter(s)

The Landlord indicated several matters of dispute on their Application and confirmed that the main issue to deal with during this proceeding is the Notice to End Tenancy. The Landlord requested to withdraw their claim for unpaid rent and compensation for damage and loss at this time and has requested liberty to reapply at a later date for these monetary claims should they choose to do so. If find it appropriate to grant the Landlord's request.

Therefore, I will deal only with the Landlord's request for an order of possession and I dismiss the balance of the Landlord's claim with liberty to re-apply.

Issue(s) to be Decided

Have the Tenants breached the *Manufactured Home Park Tenancy Act*, the "Act", or tenancy agreement, entitling the Landlord to an order of possession, and the filing fee?

Background and Evidence

The Landlord and Tenants have a tenancy agreement which commenced on September 01, 2005. The Tenants rent a pad in a manufactured home park and Landlord does not hold a security deposit.

Based on the testimony of both parties, I find that the Tenants were served with a 10 Day Notice to End Tenancy for non-payment of rent. The Tenants have not paid the outstanding rent and have not applied to dispute the Notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

The parties came to an agreement during the course of the hearing that the Tenants will vacate the rental site on or before November 30, 2011. As a result, the Landlord is requesting an order of possession to be effective November 30, 2011 at 1:00 P.M.

It is unclear from the Landlord's amended Application, where the filing fee is crossed out, whether the intention was to recover the filing fee or not. The agent for the Landlord who completed and amended the Application form was not in attendance at the hearing and the agents for the Landlord who did attend made no submission in regards to this issue. As a result I decline to award recovery of the filing fee to the Landlord in relation to the Application before me.

Conclusion

The Landlord's other disputes, unpaid rent and compensation for damage or loss, as set out on their Application are dismissed with liberty to reapply.

I find that the Landlord is entitled to an order of possession and the Tenants must vacate the rental site by **1:00 P.M. on November 30, 2011**. A formal order of possession has been issued and may be filed in the Supreme Court and enforced as an order of that Court.

The order accompanies the Landlord's copy of this decision.

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: November 16, 2011.

Residential Tenancy Branch