



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR and FF

Introduction

This application was brought by the landlord on December 9, 2011 seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served by registered mail on November 10, 2011. The landlord also sought a Monetary Order for the unpaid rent, late fees, and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on November 11, 2011, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

As a matter of note, the landlord advised that the tenant had refused service of the Notice of Hearing, which is nevertheless, deemed to constitute complete and proper service by section 83(b) of the Act.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for the unpaid rent, late fees and recovery of the filing fee.

Background and Evidence

This tenancy began on May 30, 2007 and pad rent is currently \$595.50 per month.

During the hearing, the landlord advised that the tenant has not lived in the manufactured home for approximately 15 years, but that her nephew had been occupying it and paying the rent until his death in August 2011.

The landlord stated that the tenant resides in a care home but that, to the best of her knowledge, has full capacity to represent her own interests but does not choose to deal with the issue of the manufactured home.

The landlord stated that there had been a potential sale in September of 2011 but that the opportunity had been lost as a result of the tenant's reluctance to cooperate.

Therefore, the landlord requests an Order of Possession and a Monetary Order for the unpaid rent and late fees since and including September 2011.

Analysis

Section 20 of the *Act* provides that tenants must pay rent when it is due.

Section 39 of the *Act* authorizes a landlord to issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. A tenant may pay the rent or make application to contest the Notice within five days of receipt of it.

Section 48(2)(b) of the *Act* provides that a landlord make application for an Order of Possession if the tenant has neither paid the rent nor made application to contest it.

In the present matter, I accept the evidence of the landlord that the tenant has not paid the rent, and she has not made application. Therefore, I find that the landlord is entitled to an Order of Possession to take effect at 1 p.m. on January 16, 2011.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent plus loss of rent for January 2012 and recovery of the filing fee for this proceeding.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

| | |
|-------------------------|-------------------|
| Rent for September 2011 | \$ 595.50 |
| Rent for November 2011 | 595.50 |
| Rent for December 2011 | 595.50 |
| Filing fee | 50.00 |
| TOTAL | \$2,432.00 |

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession to take effect at 1 p.m. on January 16, 2012 for service on the tenant.

In addition, the landlord's copy of this decision is accompanied by a Monetary Order for \$2,432.00, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord is at liberty to make application for any further losses or damage as may be ascertained at the conclusion of the tenancy.

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: December 23, 2011.

Residential Tenancy Branch