



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenant by posting the application on the tenant's door on December 31st, 2011. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of mobile home in a manufactured home park. The landlord testified that the tenancy started three or four years ago. The rent was \$476.63 per month until December 31st, 2011 and increased to \$496.58 as of January 1st, 2012. The landlord said that the tenant owes rent since September 2011, and that he posted a 10

Day Notice to End Tenancy on the tenant's door on December 23rd, 2011, which the landlord provided as documentary evidence.

Analysis

Section 82(1) of the *Manufactured Home Park Tenancy Act* states:

*“An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 6, when required to be given to one party by another, **must** be given in one of the following ways:*

- (a) By leaving a copy with the person;*
- (b) If the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) By sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) If the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) As ordered by the director under section 64(1) [director's orders: delivery and service of documents].*

Section 82(2) of the Act states in part that; an application by a landlord for an order of possession must be given by attaching a copy to a door or other conspicuous place.

The landlord's method of delivery of his application for dispute resolution does not fall in any of the methods allowed by statute when making a monetary claim for unpaid rent. The tenant was not served in accordance with statute and therefore I am not satisfied that the tenant had knowledge of this hearing. The Act however allows for the landlord to post an application for an order of possession on the tenant's door. Accordingly the landlord is entitled to an order of possession.

Section 64(1) of the Act provides in part that the director may order that a notice may be served by substituted service in accordance with the order.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord's application is dismissed with leave to reapply. The landlord may make an application for substituted service pursuant to section 64(1) of the act.

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: January 16, 2012.

Residential Tenancy Branch