



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with an Application by the Landlord for an order of possession and a monetary order for the filing fee.

The Landlord and the Tenant 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.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession for the rental site and a monetary order for the filing fee, pursuant to the Manufactured Home Park Tenancy Act (the "Act")?

Background and Evidence

The parties agree that the Tenant's name was added to the tenancy agreement in 1993 and that she was a resident of the site for many years. Neither party provided a copy of the tenancy agreement in evidence. The parties agree that the rent is \$345.00 per month due on the first of the month and that the Tenant has been paying the rent on time.

The Landlord testified that he posted a One Month Notice to End Tenancy for Cause on the door of the rental site on November 30, 2011 as he was unable to serve it in person. The Landlord provided photographic evidence that both pages of the Notice were posted.

The Tenant testified that she lived at the rental site from 1975 to approximately four years ago, and her son lives at the rental site currently. The Tenant stated that she pays the rent to the Landlord, not her son, and that the ownership of the manufactured home is only in her name and in her mother's name. The Tenant stated that when she drove her son home on either December 1 or 2, 2011, she saw the One Month Notice to End Tenancy posted on the door of the rental site. The Tenant stated that she did not file an application for dispute resolution, and thought she could talk to the Landlord to try and resolve the issues that were stated on page two of the Notice and the issues identified in the letter the Landlord had sent her previously.

The Landlord stated that the issues were not resolved and they filed their Application for dispute resolution on January 03, 2012 seeking an order of possession of the rental site. The Landlord stated that they have cause to end the tenancy as the Tenant has breached the rules and regulations of the manufactured home park. The Landlord stated that the Tenant has provided them a rent cheque for January 2012, however they have not deposited the cheque at this time as they want the tenancy to end.

Analysis

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

Based on the testimony of both parties, I find that the Tenant was properly served with a One Month Notice to End Tenancy in accordance with the Act. As the Notice was posted on the door of the rental site, on November 30, 2011, it was deemed served in three days (December 03, 2011). The Tenant had ten days from the date of service to dispute this Notice; the deadline to do so was December 13, 2011. The Tenant did not apply to dispute the Notice. As a result the Tenant is conclusively presumed to have accepted that the tenancy will end one month after the Notice was deemed served. As the Notice was not deemed served until December 03, 2011 (three days after it was posted), the Act requires that the Landlord provide a full month's Notice to end the Tenancy. The Act calculates this based on when the rent is due. Although the Notice states that the Landlord intended the tenancy to end of December 31, 2011, the effective date must be corrected, pursuant to section 46 of the Act, as the Notice was not deemed served until after the first day of the month when rent is due. As a result the effective date of this Notice corrects to January 31, 2012.

I find that the Landlord is entitled to an order of possession on the rental site effective 1:00 P.M. January 31, 2012.

As the Landlord was successful in their Application, I find that the Landlord is also entitled to a monetary award of \$50.00 representing the filing fee paid for this Application.

Conclusion

I find that the Landlord is entitled to an order of possession and the Tenant, and all occupants, must vacate the rental site by **1:00 P.M. on January 31, 2012**. A formal order of possession has been issued and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlord is entitled to monetary order pursuant to section 65 of the Act in the amount of **\$50.00**. This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims).

The orders accompany 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: January 18, 2012.

Residential Tenancy Branch