



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

The hearing was convened in response to an application by the landlord pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) to for an order of possession based on a 1 Month Notice to End Tenancy for Cause (the “Notice”), and to recover the filing fee for the application.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions to me. I have considered all of the relevant evidence and testimony provided.

Issue(s) to be Decided

- Did the tenant dispute the Notice issued pursuant to section 40(1)(h) of the *Act*?
- Should an Order of Possession pursuant to section 48 of the *Act* be granted?
- Should a Monetary Order to recover the filing fee pursuant to section 65 of the *Act* be granted?

Background and Evidence

The landlord testified that he owns the manufactured home park and rents the manufactured home site (the “Site”) to the tenant. The landlord alleges that the tenant sublet the Site without the landlord’s prior written approval.

The tenant confirms he was served with the Notice on April 3, 2012, by personal delivery. The effective date of the Notice was May 3, 2012, which corrects under the *Act* to May 31, 2012.

The tenant testified that the prior occupant of the Site left without much notice and that the current occupant had not been approved by the landlord. The tenant was unable to

testify as to the full name of the current occupant and indicated that his attempts to have the current occupant fill out the proper paperwork have been unsuccessful to date. The tenant stated that he may have to contact the police as a result. At the end of the hearing, the tenant requested a two week grace period.

The Notice informed the tenant that they had 10 days to dispute the Notice. The landlord testified that the tenant had not served him with an Application for Dispute Resolution to dispute the Notice. The tenant confirmed that he did not file an Application for Dispute Resolution to dispute the Notice.

During the hearing, the landlord requested an Order of Possession for the corrected effective date of May 31, 2012. The landlord also indicates in his application that he is seeking a Monetary Order of \$50.00 to cover the filing fee for this application.

Analysis

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

The tenant agrees that he has sublet the rental Site without the landlord's permission, contrary to section 40(1)(h) of the *Act*. The tenant did not file an Application to Dispute the Notice and is, therefore, conclusively presumed under section 40(5) of the *Act* to have accepted that the tenancy will end on the effective date of the Notice. Regarding the two week grace period as requested by the tenant, the tenant had 10 days after being served with the Notice to file an Application to Dispute the Notice, which he failed to do.

Given the above, I find that the landlord is entitled to an Order of Possession effective **at 1:00pm on May 31, 2012**. This order may be filed in the Supreme Court and enforced as an order of that court.

As the landlord has been successful in his application, I find that the landlord is entitled to a Monetary Order of **\$50.00** for the filing fee paid for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant agrees that he sublet the rental Site contrary to the *Act* and did not file an Application to Dispute the Notice. The tenant is presumed under the law to have accepted that the tenancy will end on the corrected effective date of the Notice.

The landlord is granted an Order of Possession effective **at 1:00pm on May 31, 2012**, and is granted a Monetary Order in the amount of **\$50.00** for the filing fee paid by the landlord for this application.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 24, 2012

Residential Tenancy Branch