



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent only. The tenant did not attend.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 52(3) of the *Manufactured Home Park Tenancy Act (Act)* by registered mail on May 4, 2012 in accordance with Section 89. The landlord testified that he had reviewed the Canada Post tracking information on line and confirmed the tenant signed for the receipt of the hearing documents on May 10, 2012.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

The landlord did not include in his Application that he was seeking a monetary order for unpaid rent, however he did identify that he was seeking a monetary order in the amount of \$780.00 and he described in the details of dispute that this was for unpaid rent. As such, I find no prejudice against the tenant and I amend the landlord's Application to include seeking a monetary order for unpaid rent.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 39, 48, 60, and 65 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on January 1, 2010 for a month to month tenancy beginning on January 1, 2010 for the monthly rent of \$260.00 due on the 1st of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on April 11, 2012 with an effective vacancy date of April 21, 2012 due to \$520.00 in unpaid rent.

Documentary evidence filed and testimony from the landlord indicates the tenant failed to pay the full rent owed for the months of March, April, and May 2012 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid in person on April 11, 2012.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and testimony and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on April 11, 2012 and the effective date of the notice was April 21, 2012. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 39(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$830.00** comprised of \$780.00 rent owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: May 25, 2012.

Residential Tenancy Branch