



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 July 23, 2012 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on June 28, 2012. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested.

Background and Evidence

This tenancy began approximately in 1990 according to the recollection of the tenant, although the landlord stated that he had created new tenancy agreements after he purchased the Manufactured Home Park in 2007. Pad rent was \$200 per month and was increased to \$210.11 in October of 2009.

During the hearing, the landlord gave evidence that the tenant has paid no rent from July 2009 to the present and has now reached a total arrears of \$7,533.63.

The tenant concurred with the landlord that she had not been able to pay the rent as claimed. She explained her income from employment is only \$300 per month she does not wish to apply for social assistance.

The landlord explained that he had issued a Notice to End Tenancy on July 26, 2010 but had delayed taking action as he had hoped to give the tenant an opportunity to get on her feet.

Analysis

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

Section 39 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 39(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was July 10, 2012.

However, the landlord has granted an extension to that end of tenancy date. The landlord requested and I find he is entitled to an Order of Possession to take effect at 1 p.m. on November 30, 2012.

Given the size of the monetary claim for \$7,533.63 and as the landlord has not provided a copy of the rental agreement or notice of rent increase I find that I cannot accurately confirm the amount of the arrears.

In addition, the tenant raised the prospect of surrendering ownership of the manufactured home to the landlord in consideration of the rent arrears.

Therefore, the monetary portion of the application is dismissed with leave to reapply.

As the success of the application is, in large, attributable to the tenant's corroboration of the landlord's testimony, I decline to award the filing fee.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on November 30, 2012.

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: August 16, 2012.

Residential Tenancy Branch