



Dispute Resolution Services

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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 by posting on the tenant's door 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

According to the tenant, he assumed this tenancy by way of a "rent to own" agreement with the previous owners and acquired ownership on July 11, 2010. The landlord stated that he had bought the Manufactured Home Park in 2007. Pad rent is \$211.14.

During the hearing, the landlord submitted a summary stating that no rent has been paid for the manufactured home pad from July of 2009 and the tenant now owes a total of \$7,567.62.

The tenant stated that he has a number of receipts for some of the period claimed by the landlord but acknowledged that he has not paid rent from May 2012 to the present.

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.

In view of the landlord's claim for unpaid rent for a period which may predate the tenancy, and in view of the lack of documentary evidence to corroborate either party's testimony, I find I cannot accurately assess the amount owed. Therefore, the monetary portion of the application is dismissed with leave to reapply.

As the success of the application had to rely on the tenant's evidence that he has not paid rent since May 2012, 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. The landlord is granted leave to reapply for the monetary award.

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