



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 the landlord's application for dispute resolution under the *Manufactured Home Park Tenancy Act (the "Act")* seeking an order of possession for the manufactured home pad site and for recovery of the filing fee.

The landlord's agents appeared; the tenant did not appear.

The landlord testified that the tenant was served with the Application for Dispute Resolution and Notice of Hearing by registered mail on September 10, 2012. The landlord supplied testimony of the tracking number of the registered mail.

I find the tenant was served in a manner complying with the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the manufactured home pad site and to recover the filing fee?

Background and Evidence

The occupancy of the manufactured home pad site by the tenant began on January 29, 2003 and monthly pad rent is currently \$266.00.

The landlord submitted evidence that the tenant was served a 1 Month Notice to End Tenancy for Cause (the "Notice"), dated June 6, 2012, via posting on the door on that date, listing an effective end of tenancy on July 6, 2012. The landlord received documents from the tenant; however, according to the landlord, the tenant still was in breach of a material term of the tenancy agreement, which caused the landlord to issue another Notice, this one dated August 1, 2012, which he delivered to the tenant via registered mail, on August 1, 2012, listing an effective end of tenancy of September 1, 2012. The tenant was deemed to have been served the Notice on August 6, 2012.

Section 46 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to September 30, 2012.

The Notice explained that the tenant had ten days to dispute the Notice. It also explains that if the tenant did not file an application to dispute the Notice within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the site by the effective date of the Notice.

The cause as stated on the Notice alleged that the tenant has breached a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so.

The landlord's relevant evidence included a copy of the two 1 Month Notices to End Tenancy for Cause, a written notice to the tenant, and the mobile home park operating rules and regulations.

Analysis

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

I have reviewed all the evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord. The Notice was deemed received by the tenant five days after the first Notice was served via registered mail, in this case the Notice was mailed on August 1, 2012, and deemed served on August 6, 2012. I have no evidence before me that the tenant filed an application to dispute the Notice.

Based on the foregoing, I find the tenant is conclusively presumed under section 40(5) of the Act, to have accepted that the tenancy ended on the effective date of the Notice and must vacate the manufactured home pad site.

Conclusion

I find that the landlord is entitled to an order of possession effective two days after service on the tenant.

The order of possession is enclosed with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia should the tenant fail to comply with this order of possession by vacating the manufactured home pad site pursuant to the terms of the order.

I find that the landlord is entitled to recover the filing fee and I grant the landlord a final, legally binding monetary order for the amount of \$50.00, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement 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: October 10, 2012.

Residential Tenancy Branch