



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC and FF

Introduction

This application was brought by the landlord on September 7, 2012 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent and a one-month Notice to End Tenancy for repeated late payment of rent, both dated August 20, 2012. The landlord also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding from the tenants..

Issue(s) to be Decided

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

Background and Evidence

This tenancy is a manufactured home park site with current pad rent of \$371 per month.

During the hearing, the landlord gave evidence that the two notices to end tenancy had been served when the tenants had not paid the pad rent due on August 1, 2012. In the interim, the landlord stated that the August rent remained unpaid and the tenants had paid no rent for September and October of 2012.

The tenants concurred that the rent remained outstanding.

Analysis

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

Section 38 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 the present matter, I find that the tenants neither paid the rent nor made application to contest the notice within five days.

Therefore, under section 38(5) of the *Act*, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was September 4, 2012.

Accordingly, I found that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenants.

On hearing that determination, the tenants asked the landlord if she would permit the tenancy to continue for a period to give them an opportunity to attempt a sale of the manufactured home.

The landlord agreed to extend the tenancy to February 28, 2013 under three conditions:

1. The property must be listed for sale no later than October 31, 2012;
2. The tenants must satisfy the rent arrears by October 31, 2012;
3. The tenants must keep rent current for the duration of the tenancy.

In order to accommodate the conditional grace period, I am providing the landlord with an Order of Possession to take effect one month from service of it on the tenants on the landlord's promise that she will not enforce the order to take effect before February 28, 2013 if the tenant's comply with the three conditions.

If, for example, the property is not listed for sale by October 31, 2013 or if the rent arrears has not been paid by October 31, 2013, the landlord may serve the Order on that date and require vacant possession by November 30, 2013. Similarly, if the tenants do not pay rent on time in the interim, the landlord may enforce the Order.

As the tenancy is ending on the 10-day Notice to End Tenancy of August 20, 2012, I have found it is not necessary to examine the one-month Notice issued on the same date.

I find that the landlord is entitled to a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding, calculated as follows:

Rent for August 2012	\$371..00
Rent for October 2012	371..00
Filing fee	<u>50.00</u>
TOTAL	\$1,163.00

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 one month from service of it on the tenants. Enforcement of the Order is subject to the landlord's promise that the Order will be served to take effect on February 28, 2012 provided the tenants comply with three conditions set out herein; otherwise the Order may be served on breach of any of the conditions.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$1,163.00**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

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

