



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 due to alleged cause and for recovery of the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the beginning of the hearing no party raised any issue regarding service of the evidence of the landlord; the tenant submitted no evidence.

Thereafter all parties gave affirmed testimony, were 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 landlord submitted evidence that the tenant was served a 1 Month Notice to End Tenancy for Cause (the "Notice"), dated September 7, 2012, by leaving it with the tenant on that date, listing an effective end of tenancy of September 30, 2012.

A notice to end the tenancy is not effective earlier than one month after the date the tenant receives the notice and the day before the day in the month that rent is payable

under the tenancy agreement. In other words, one clear calendar month before the next rent payment is due is required in giving notice to end the tenancy. 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 October 31, 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 rental unit by the effective date of the Notice.

The causes as stated on the Notice alleged that the tenant is repeatedly late in paying rent.

The landlord's relevant evidence included copies of receipts for three rent payments showing late payments and a letter from the tenant explaining the non-payment of another month.

The tenant agreed that she received the Notice and did not dispute that the late payments had been made. The tenant said health and family problems prevented her from making timely payments or disputing the Notice.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

The tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 40(5) of the Act to have accepted that the tenancy ended on the effective vacancy date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the manufactured home pad site effective two days after service of the order upon the tenant.

I also find the landlord is entitled to recovery of the filing fee of \$50.00.

Conclusion

I grant the landlord a final, legally binding order of possession, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the manufactured home pad site pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

I grant the landlord a final, legally binding monetary order in 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 monetary 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* (the "Act") and is being mailed to both the applicant and the respondent.

Dated: November 08, 2012.

Residential Tenancy Branch