



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the *Manufactured Home Park Tenancy Act* (the "Act") for an order of possession for the manufactured home pad site due to unpaid rent, and to recover the filing fee.

The tenant did not appear at the telephone conference call hearing. The landlord appeared and gave affirmed testimony.

The landlord testified that the tenant was served with the Application for Dispute Resolution and Notice of Hearing (the Hearing Package) by registered mail on November 14, 2012. The landlord supplied the tracking number of the registered mail.

I find the tenant was served the hearing package in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to documentary evidence timely submitted prior to the hearing.

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 due to unpaid pad rent, a monetary order and to recover the filing fee?

Background and Evidence

According to the landlord, this tenancy began at least 10 years ago; however there are no current documents indicating the actual start date. The landlord also stated that current monthly pad rent is \$275.00.

The landlord gave evidence that on September 13, 2012, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting it on the tenant's door, listing unpaid pad rent of \$1375.00 as of September 1, 2012. The effective vacancy date listed on the Notice was September 24, 2012.

The Act states that documents served in this manner are deemed delivered three days later. Therefore the tenant was deemed served the Notice on September 16, 2012.

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 26, 2012.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

I have no evidence before me that the tenant applied to dispute the Notice.

In explanation as to why the landlord has not acted sooner on the Notice issued in September, the landlord said that the tenant makes continuous promises to pay and has repeatedly informed the landlord that she has mailed her payment for all unpaid pad rent.

The landlord stated that the tenant has not paid rent since the issuance of the Notice and currently owes additional unpaid pad rent for October, November and December, for a total of \$2200.00.

Analysis

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

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or apply to dispute the Notice within five days of service and is

therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective 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 allow the landlord to amend their application to request the subsequent months of unpaid pad rent and I therefore find that the landlord has established a total monetary claim of \$2250.00 comprised of outstanding pad rent of \$2200.00 through December 2012, and the \$50.00 filing fee paid by the landlord for this application.

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 pursuant to section 67 of the Act for the amount of \$2250.00, 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 *Residential Tenancy Act* and is being mailed to both the applicant and the respondent.

Dated: December 13, 2012.

Residential Tenancy Branch