



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Laughlin Mobile Home Park Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR

Introduction

This is the Landlord's application for an Order of Possession for unpaid rent.

The parties gave affirmed testimony at the Hearing.

The Landlord served the Tenants with the Notice of Hearing documents and copies of his documentary evidence by handing the documents to the Tenant NL at the rental unit on February 6, 2013 with a witness present. The Tenant acknowledged receipt of the documents, including the Landlord's documentary evidence.

The Tenant did not provide any documentary evidence to the Residential Tenancy Branch or to the Landlord.

Preliminary Matter

The Application for Dispute Resolution indicates that the Application was made under the *Manufactured Home Park Tenancy Act*, however the Landlord's agent stated that the Tenant rents the mobile home from the Landlord. Therefore, I amended the Landlord's Application to reflect that it was made under the *Residential Tenancy Act*.

The Notice to End Tenancy names the correct Act.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

A copy of the tenancy agreement was provided in evidence. This tenancy began on December 1, 2012. Monthly rent is due on the first day of each month.

The Landlord provided a copy of the Notice to End Tenancy for Unpaid Rent in evidence. The Notice was issued on January 16, 2013, for \$850.00 in unpaid rent that was due on January 1, 2013. The Landlord's agent testified that he served the Tenants

with the Notice by registered mail sent on January 16, 2013. The Landlord provided a copy of the registered mail receipt and tracking number in evidence.

The Landlord's documents indicate that the Tenants' rent cheque for December, 2012, was returned NSF and that the Tenants have not paid any rent for the months of January or February, 2013. The Landlord requested an Order of Possession effective as soon as possible.

The Tenant stated that she has not paid any rent because she has been ill.

The Tenant testified that she did not receive the Notice to End Tenancy until she got a copy of it in the Landlord's documentary evidence. A search of the Canada Post tracking system indicates that attempted delivery was made on January 17, 2013 and a notice card was left indicating where the item could be picked up. It also indicates that a final notice was left for the Tenant on January 22, 2013, but the recipient did not claim it. I asked the Tenant why she did not pick up the documents when she got the notice card. She stated that she often got mail for other people.

The Tenant stated that she has not paid any of the outstanding rent and that she has not filed an Application for Dispute Resolution to cancel the Notice to End Tenancy.

Analysis

I find that the Landlord duly served the Tenant with the Notice to End Tenancy in accordance with the provisions of Section 88 (c) of the Act. Service in this manner is deemed to be effected 5 days after mailing the document. I explained to the Tenant that failure to accept service did not change the service provisions of the Act. In any event, the Tenant admitted to having received a copy of the Notice to End Tenancy on February 6, 2013, and that she did not pay the outstanding rent or file an Application to dispute the Notice by February 11, 2013 (within 5 days of receiving the copy).

The Act provides that if a Tenant does not pay the rent or dispute the Notice to End Tenancy within 5 days of receiving the Notice, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Therefore, I find that the Landlord is entitled to an Order of Possession, which will be effective two days after service of the Order upon the Tenant.

Conclusion

I hereby provide the Landlord with an Order of Possession effective **2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced 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*.

Dated: February 27, 2013

Residential Tenancy Branch

