



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for An Order of Possession and a Monetary Order for unpaid rent

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on December 18, 2012. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 82 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to end the tenancy?

Background and Evidence

This tenancy started approximately three years ago as a month to month tenancy. Rent is \$255.00 per month payable in advance of the 1st day of each month. The Landlord said the Tenant is not living in the rental unit and the Tenant is not communicating with the Landlord; therefore the Landlord requested an Order of Possession with an effective date as soon as possible.

The Landlord said that the Tenant did not pay \$255.00 of rent for December, 2012, when it was due and as a result, on December 7, 2012 she personally delivered a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 7, 2012 to the Tenant. The Landlord said she had a witness with her. The Landlord continued to say that the Tenant also has unpaid rent for January, 2013 of \$255.00 and February, 2013 of \$255.00.

In addition the Landlord said the Tenant has not paid the \$1,000.00 that he was previously ordered to pay.

The Landlord said their total claim for unpaid rent is \$765.00, they are also requesting to recover the filing fee of \$50.00 and to receive an Order of Possession for as soon as possible.

Analysis

Section 39(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 39(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 83 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day it was served, or on December 7, 2012. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than December 12, 2012.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 48(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for December, 2012, January, 2013 and February, 2013 in the amount of \$255.00 for each month totally an amount of \$765.00.

As the Landlords have been successful in this matter they are also entitled to recover the filing fee of \$50.00 for this proceeding from the Tenant.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$815.00 have been issued to the Landlords. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: February 05, 2013

Residential Tenancy Branch

