



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, FF, ET

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order. The hearing was conducted via teleconference and was attended by one of the landlords and the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and/or cause; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 39, 40, 48, 60, and 65 of the *Manufactured Home Park Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began on June 1, 2012 as a month to month tenancy for the monthly rent of \$250.00 due on the 1st of each month. The landlord submitted into evidence the following documents:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on February 7, 2013 with an effective vacancy date of February 22, 2013 for unpaid rent in the amount of \$250.00 that had been due on February 1, 2013 and confirmation that this Notice was served on the tenant by registered mail;
- A copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on January 17, 2013 with an effective vacancy date of February 28, 2013 citing the tenant has assigned or sublet the site without landlord's written consent and the tenant knowingly gave false information to prospective tenant or purchase of the rental site/unit or property/park.

Analysis

Section 39 of the *Act* allows a landlord to end a tenancy if rent is unpaid on any day after the day it is due by giving the tenant notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. Section

39(4) goes on to say that within 5 days of receiving such a notice the tenant may pay the overdue rent, in which case the notice has no effect or dispute the notice by making an application for dispute resolution.

Section 39(5) states that if a tenant who receives a notice under Section 39 does not pay the rent or file an application for dispute resolution within 5 days the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on February 12, 2013 and the effective date of the notice was February 22, 2013. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 39(4) of the *Act*. Based on the foregoing, I find the tenant is conclusively presumed under Section 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

As I have found the 10 Day Notice to End Tenancy to be effective with an vacancy date that took effect prior to this hearing and the vacancy date of the 1 Month Notice to End Tenancy for Cause, I make no findings on the 1 Month Notice to End Tenancy for Cause issued by the landlord on January 17, 2013.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$550.00** comprised of \$550.00 rent owed and the \$50.00 fee paid by the landlord for this application. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 *Manufactured Home Park Tenancy Act*.

Dated: March 18, 2013

