



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 pad rent, monetary order for unpaid pad rent, and to recover the filing fee.

The landlords (hereafter referred to as landlord) and the tenant appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, no party raised any issue regarding service of the 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 oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); 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 for unpaid pad rent and to recover the filing fee?

Background and Evidence

According to the landlord, this tenancy began in October 2011, when the tenant installed a manufactured home pad site on a portion of the landlord's property, where power, water and sewer had previously been installed.

All parties agreed that the tenant was to install the pad site at her own expense in return for not paying rent for a period of time. The parties also agreed that starting in November 2012, the tenant was to commence paying pad rent of \$375 per month.

The landlord stated that the tenant stopped paying monthly pad rent in May 2013, and has not paid since that time.

The landlord gave evidence that on June 24, 2013, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), listing unpaid pad rent of \$750 as of June 1, 2013. The effective vacancy date listed on the Notice was July 4, 2013.

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 file an application to dispute the Notice.

The landlord said that the tenant has not paid pad rent since the issuance of the Notice and is currently in arrears in monthly pad rent and owes the amount of \$1875, for May, June, July, August, and September 2013.

The tenant agreed that she received the Notice, did not file an application to dispute the Notice and agreed that she has not paid the monthly pad rent as claimed by the landlord. The tenant said health and employment problems prevented her from making timely payments.

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 or Utilities, did not pay the outstanding unpaid rent or make an application to dispute the Notice within five days of service and is therefore conclusively presumed under section 39(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 ten (10) days after service of the order upon the tenant.

I also find that the landlord is entitled to a total monetary award of \$1925, comprised of outstanding unpaid pad rent of \$1875 through September 2013, and the \$50 filing fee paid by the landlord for this application.

I have not awarded the landlord reimbursement of the registered mail expenses as claimed as the *Act* does not provide for the reimbursement of expenses related to disputes arising from tenancies other than the filing fee.

Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession pursuant to section 47 of the Act, 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 after it has been served upon her, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised the costs of such enforcement are recoverable from the tenant.

I grant the landlord a final, legally binding monetary order for the amount of their monetary award pursuant to section 60 of the Act for the amount of \$1925, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised the costs of such enforcement are recoverable from the tenant.

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: September 06, 2013

Residential Tenancy Branch

