



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

The landlord and tenant TP appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter both parties 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.

Service Issues-The tenant, although appearing, said that he was not served with the Notice of Hearing letter and the landlord's application for dispute resolution in the proper manner, indicating that he only received the documents when he attended the manufactured home and discovered the papers. In explanation, the tenant said that he had separated from tenant EP, and had vacated the manufactured home in June 2013.

The landlord submitted documentary evidence that he served tenant TP with his application and Notice of Hearing via registered mail using the same box number as the tenant confirmed during the hearing was his mailing address. Due to the tenant's confirmation of a correct mailing address being used by the landlord in serving the documents and the tenant's appearance at the hearing, I determined that the tenant had been served in the manner required under section 82 of the Act.

The landlord served only tenant TP and not tenant EP with his notice of hearing and application, and I therefore excluded her from further consideration.

Preliminary issue-I explained to the tenant that as he was a co-tenant of the manufactured home site, he was therefore jointly and severally liable for meeting the requirements of the tenancy agreement and obligations for the landlord's losses. Therefore the landlord may recover the full amount of money due from all, or any one of the tenants.

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

The parties agreed that the tenancy began on or about February 1, 2008 and that monthly pad rent was \$355 at the beginning of the tenancy and that current pad rent was \$460.

The landlord gave evidence that on August 19, 2013, tenant EP was personally served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), listing unpaid pad rent of \$485 as of August 1, 2013. The effective vacancy date listed on the Notice was August 30, 2013. I note that \$25 of this amount was included as a late fee, and not unpaid rent.

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, owing the amount of \$460 each for August, September, and October 2013.

The tenant did not dispute that pad rent was owed to the landlord.

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 pad 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 days after service of the order upon the tenant.

I also find that the landlord is entitled to a total monetary award of \$1430, comprised of outstanding unpaid pad rent of \$1380 for the months of August through October 2013, and the \$50 filing fee paid by the landlord for this application.

I have not awarded the landlord late fees as there was no clause in the tenancy agreement requiring the tenant to pay a fee for a late payment of rent.

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 him, 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 \$1430, 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: October 24, 2013

Residential Tenancy Branch

