



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kingsen Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession for cause / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony.

The landlord's agent testified that the application for dispute resolution and notice of hearing (the "hearing package") was served on the tenant by way of registered mail. Despite this, the tenant did not appear. Evidence submitted by the landlord's agent includes the Canada Post tracking number for the registered mail. The Canada Post website informs that the item was "accepted at the Post Office" on March 12, 2014, and was later "refused by recipient."

I find that the tenant's refusal of the hearing package does not nullify the provisions of section 83 of the Act which speaks to **When documents are considered to have been received**. Accordingly, as the hearing package was accepted at the Post Office on March 12, 2014, it is deemed to have been received five (5) days later on March 17, 2014.

Preliminary Matters

Subsequent to the time when the landlord's application for dispute resolution was filed on March 10, 2014, by letter dated April 09, 2014, the landlord's agent requested that the application be amended by removing the names of the following respondents: female tenant "KMG," female owner "PLS" and male owner "TLS." The landlord's application has been so amended.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which is thought to have begun sometime during mid 2013. Monthly pad rent of \$544.00 is due and payable in advance on the first day of each month.

Pursuant to section 40 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated January 06, 2014. The landlord's agent testified that the notice was served by way of registered mail on January 31, 2014. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail. A copy of the notice was submitted in evidence. Reasons identified on the notice in support of its issuance are as follows:

Tenant is repeatedly late paying rent

Tenant has allowed an unreasonable number of occupants in the unit / site

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

Thereafter, the landlord filed an application for dispute resolution on March 10, 2014.

As to late payment of rent, during the hearing the landlord's agent testified that rent was paid late for each and every month since the landlord's agent commenced employment as manager in the manufactured home park in October 2013. Currently, the rent is paid in full (with the stated exception of several dollars) to April 30, 2014. The landlord's agent testified that a lump sum payment of rent for February, March and April 2014 was made by the tenant sometime after mid April 2014. In summary, I consider the landlord's application for compensation reflecting unpaid rent to be withdrawn.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 40 of the Act provides in part, as follows:

40(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(a) the tenant is repeatedly late paying rent;

Residential Tenancy Policy Guideline # 38 speaks to “Repeated Late Payment of Rent,” and provides in part:

Three late payments are the minimum number sufficient to justify a notice under these provisions.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord’s agent, my findings are set out below.

I find that the tenant was late with payment of rent for each and every month of the 7 month period from October 2013 to April 2014. I also find that the landlord issued a 1 month notice to end tenancy for cause dated January 06, 2014, and that the notice was served by way of registered mail on January 31, 2014. Pursuant to section 83 of the Act (**When documents are considered to have been received**) I find that the 1 month notice was received on February 05, 2014. As the tenant did not file an application to dispute the notice within 10 days of receiving it, pursuant to section 40(5) of the Act the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Following from all the above, I find there is no need for me to consider other reasons identified on the 1 month notice in support of its issuance.

Section 48 of the Act addresses **Order of possession for the landlord**, and provides in part:

48(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a manufactured home site, and the order takes effect on the date specified in the order.

Pursuant to all the above, I find that the landlord has established entitlement to an **order of possession** effective **May 31, 2014**.

As the landlord has succeeded in obtaining an order of possession, I find that the landlord has established entitlement to recovery of the **\$50.00** filing fee. Accordingly, I hereby issue a **monetary order** in favour of the landlord for that amount.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **May 31, 2014**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 60 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$50.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court 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 *Manufactured Home Park Tenancy Act*.

Dated: April 28, 2014

Residential Tenancy Branch

