



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 563386 BC Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPC, MNR, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent; an Order of Possession for cause; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 82 of the *Manufactured Home Park Tenancy Act (Act)*; served by registered mail on March 06, 2013. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 83(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues to be decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to an Order of Possession for cause?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

The landlord testifies that this month to month tenancy started approximately on or about September 01, 2007. The tenant pays a pad rent of \$285.00 per month. Rent is due on the 1st of each month.

The landlord testifies that the tenant frequently failed to pay rent on the day it was due. On January 01, 2014 the tenant had an outstanding balance of rent owed of \$665.00. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent (the Notice) on January 03, 2014. This was served by posting it to the tenant's door on January 03, 2014 with a witness. This Notice states that the tenant owes rent of \$665.00. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on January 13, 2014. The tenant did not pay the outstanding rent or dispute the Notice within five days.

The landlord testifies that the tenant failed to pay rent for February on the day it was due but did make a payment of \$300.00 on February 18, 2014. The landlord testifies that this was accepted for use and occupancy only and did not reinstate the tenancy. This was documented on the tenant's rent receipt. The tenant also failed to pay rent for March and April. The landlord requests orally to amend the application to include unpaid rent for March and April. The total amount of outstanding rent is now \$1,220.00.

The landlord requests an Order of Possession of the site. The landlord also requests a Monetary Order to recover the unpaid rent of and the filing fee of \$50.00.

Analysis

Section 20(1) of the *Act* states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently, as the tenant did not attend the hearing to dispute the landlords claim I am satisfied that the landlord has established a claim for unpaid rent. I have allowed the landlord to amend their monetary claim to include all the outstanding rent up to April, 2014 as the tenant has continued to reside on the site and would be aware that rent was due on the first day of each of these months. The landlord will receive a Monetary Order for **\$1,220.00** pursuant to s. 60 of the *Act*.

I accept that the tenant was served the Notice for unpaid rent, pursuant to section 81 of the *Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Notice was deemed to have been served on the tenant three days after it was posted to the door on January 06, 2014 and therefore the effective date of the Notice is amended to January 16, 2014. The tenant did not pay the outstanding rent within five days of being deemed to have received the Notice nor did the tenant apply to dispute the Notice within five days of that date.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 39(5) of the *Act*, to have accepted that the tenancy ended on the amended effective date of the Notice and grant the landlord an order of possession pursuant to s. 48 of the *Act*.

As the landlord has been successful with this claim I find the landlord is also entitled to recover the **\$50.00** filing fee from the tenant pursuant to s. 65(1) of the *Act*.

As an Order of Possession has been issued to the landlord based on the 10 Day Notice to End Tenancy for unpaid rent I am not required to deal with the One Month Notice to End Tenancy for repeatedly late rent payments as the outcome would be the same resulting in an Order of Possession.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,270.00** comprised of unpaid rent and the filing fee. The order must be served on the Respondent and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after serve on the tenant**. This order must be served on the Respondent and may be filed in the Supreme 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 24, 2014

Residential Tenancy Branch

