



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Petisa Enterprises Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OP, MNR

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the Landlord has requested an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent.

This matter was originally considered on March 21, 2014 via the Direct Request Proceeding process. That proceeding was convened to this participatory hearing so that the details of rent owed could be established.

Both parties were present at the hearing. At the start of the hearing I introduced myself, the Application for Dispute Resolution was reviewed, the hearing process was explained to the parties and the parties were provided an opportunity to ask questions in relation to the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed and to present affirmed testimony.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the site?

Is the landlord entitled to compensation for unpaid February and March 2014 rent in the sum of \$425.00?

Background and Evidence

The tenancy commenced on July 1, 2009. The parties agreed that rent is currently \$387.00 per month, due on the 1st day of the month.

The tenant confirmed receipt of a 10 day Notice to end tenancy for unpaid rent which was given to her on March 5, 2014.

The Notice ending tenancy indicated that the Notice would be automatically cancelled if the landlord received \$425.00 within five days of service. The Notice also indicated that

the tenant was presumed to have accepted that the tenancy is ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant paid the outstanding rent or filed an Application for Dispute Resolution within five days, to prove she had paid the rent.

The tenant confirmed that she owes \$38.00 for February 2014 rent and \$387.00 for March 2014 rent. The tenant agreed with the landlord, that on March 15, 2014 she tried to pay \$75.00, but the landlord rejected that payment.

The parties agreed that April and May rent was paid and that receipts were issued for use and occupancy only.

The tenant said she thought she had until March 15, 2014 to pay her rent owed.

Analysis

Section 39(1) of the Act stipulates that a 10 Day Notice to End Tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on March 5, 2014 I find that the earliest effective date of the Notice is March 15, 2014.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on March 15, 2014, pursuant to section 39 of the Act.

Section 39(4) of the Act stipulates that a tenant has 5 days from the date of receiving the Notice to end tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. The tenant has confirmed that she did not pay all of the rent owed within 5 days of March 5, 2014. The tenant said that she did attempt to make a small payment on March 15, 2014, but even if she had paid all of the rent owed on that date, the payment would not have been made within the required 5 day period of time.

Therefore, I find, pursuant to section 39(5) of the Act, that the tenant accepted that the tenancy has ended on the effective date of the Notice; March 15, 2014. The tenant may have misunderstood the time-frame in which she had to pay the rent; but there was no evidence before me that any attempt was made to pay all of the rent owed by March 10, 2014. On this basis I will grant the Landlord an Order of Possession that is effective within 2 days of service.

The landlord has been granted an Order of possession that is effective **2 days after service to the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$425.00 in compensation for unpaid February and March 2014 rent.

The landlord has been issued a monetary Order in the sum of \$425.00. This Order may be served on the tenant and enforced via the B.C. Small Claims Court.

Conclusion

The landlord is entitled to an Order of possession and a monetary order for unpaid rent.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 55(1) of the *Manufactured Home Park Tenancy Act*.

Dated: May 14, 2014

Residential Tenancy Branch

