



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vista Village Trailer Park Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

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 before me for this month-to-month tenancy which is understood to have begun approximately 2 years ago. Monthly rent of \$401.00 is due and payable in advance on the first day of each month; effective January 01, 2014, rent was increased to this amount from what was previously \$385.00.

There have been periodic tensions between the parties during the tenancy. The principal matter before me arises from the landlord's issuance of a 10 day notice to end tenancy for unpaid rent dated February 13, 2014. The notice was served by way of registered mail, and evidence submitted by the landlord includes the Canada Post tracking numbers for the registered mail. The notice was unclaimed by the tenant and was ultimately returned to the landlord. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the manufactured home site is February 28, 2014. The amount of rent shown as unpaid on October 01, 2013 is \$485.00; during the hearing the landlord testified that only \$385.00 of that amount is rent, whereas the balance reflects fees assessed for late payment of rent. The landlord testified that subsequent to service of the notice it was not until March 01, 2014 when the tenant made any payment toward rent. In exchange for payment, the landlord issued a receipt with the notation, "for use & occupancy only."

The landlord testified that the tenant's rent is now fully paid up until the end of June 2014, and that all fees assessed for the late payment of rent have also been paid. The tenant testified that he has also reimbursed the landlord's \$50.00 filing fee; the landlord disputes this claim and testified that over and above rent the tenant has only paid fees for late payment of rent.

The tenant prefers to continue to reside in the manufactured home park, while the landlord seeks an order of possession on the basis of the subject 10 day notice. There was some discussion around a potential end date to tenancy which would be agreeable to both parties, however, a mutual agreement was not reached.

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

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy dated February 13, 2014. As the notice was served by way of registered mail on that same date, pursuant to section 90 of the Act which speaks to **When documents are considered to have been received**, I find that the notice was received 5 days later on February 18, 2014. The tenant's failure to take direct delivery or pick up the notice does not nullify the service provisions of the Act.

I find that the tenant neither paid the full amount of rent outstanding within 5 days of receiving the notice, nor applied to dispute it by filing an application for dispute resolution. Accordingly, the tenant is conclusively presumed under section 39(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. In the result, I find that the landlord has established entitlement to an **order of possession**.

As rent is currently paid in full to June 30, 2014, the landlord's application for a monetary order reflecting compensation for unpaid rent is hereby dismissed.

I find insufficient evidence that the tenant has reimbursed the landlord's \$50.00 filing fee and, as the landlord has succeeded in her application for an order of possession, I find that she has established entitlement to recovery of the **\$50.00** filing fee. I therefore 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 **Tuesday, September 30, 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: June 18, 2014

Residential Tenancy Branch

