



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLLEEN WADDELL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on February 4, 2015. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with representatives of both parties.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This is a long standing tenancy that neither the Landlord nor the Tenant’s representative knew when it started. Rent is \$353.00 per month. The Tenants representative said The Public Guardian and Trustees office of BC is acting for the Tenant as they have control of his estate.

The Landlord said that the Tenant did not pay \$353.00 of rent for January, 2015 when it was due and as a result, the Landlord mailed a 10 Day Notice to End Tenancy for non-payment of rent on January 14, 2015. The Landlord said the Tenant has unpaid rent for February and March, 2015 for \$353.00 for each month and the Tenant owes a \$25.00 late rent payment fee for each month of January, February and March, 2015. The Landlord said she is claiming \$1,134.00 for unpaid rent and late fees.

The Landlord further indicated that the mobile home is on the rental pad and the Landlord requested an Order of Possession to remove the mobile home as soon as possible.

The Landlord also sought to recover the \$50.00 filing fee for this proceeding.

The Tenant's representative said she was the case manager for the Tenant but she did not have the authority to make any decisions at the hearing. The Tenant's representative agreed the rent has not been paid for January, February and March, 2015.

Both parties discussed a settlement agreement but neither party had the authority to make a binding decision.

The Landlord requested an Order of Possession and a monetary Order for unpaid rent.

Analysis

Section 39(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 39(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 5 days after it was registered mailed, or on January 19, 2015. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than January 24, 2015.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 48(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for January, February and March, 2015 in the amount of \$1,059.00. I further find that the Landlord is entitled to recover the late charge of \$25.00 for January, February and March, 2015 in the amount of \$75.00.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$1,059.00	
Late payment fees (2)	\$ 75.00	
Recover filing fee	\$ 50.00	
Subtotal:		\$1,184.00
Balance Owing		\$1,184.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$1,184.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: March 03, 2015

Residential Tenancy Branch

