



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1027110 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("RTA") for:

- an Order of Possession for unpaid rent, pursuant to section 55.
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *RTA*, regulation or tenancy agreement, pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The landlord PG ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses. The landlord confirmed that he is the manager and caretaker for the manufactured home "park" and that he had authority to represent the "landlord company" named in this application, as an agent at this hearing (collectively "landlords").

The landlord testified that the tenant was personally served with a 10 Day Notice for Unpaid Rent or Utilities, dated March 5, 2015 ("10 Day Notice"), on the same date by way of posting to the tenant's rental unit door. The tenant confirmed receipt of the 10 Day Notice. In accordance with section 88 of the *RTA*, I find that the tenant was duly served with the landlords' 10 Day Notice.

The landlord confirmed that the tenant was served with the landlords' application for dispute resolution hearing package ("Application") on March 17, 2015, by way of registered mail. The tenant confirmed receipt of the landlords' Application. In accordance with sections 89 and 90 of the *RTA*, I find that the tenant was duly served with the landlords' Application.

The landlord confirmed receipt of the tenant's written evidence package. In accordance with sections 89 and 90 of the *RTA*, I find that the landlords were duly served with the tenant's written evidence package.

The landlords filed their Application under the *Manufactured Home Park Tenancy Act* ("*MHPTA*"). During the hearing, both parties confirmed that the tenant only rents the manufactured home ("rental unit"), not the manufactured home site. The landlords own both the rental unit and the site. Therefore, this matter falls under the jurisdiction of the *RTA* not the *MHPTA*. During the hearing, the landlord confirmed that he wished to amend the landlords' Application to indicate that it is being made under the *RTA*, not the *MHPTA*. The tenant did not oppose the landlord's request. Accordingly, the landlords' Application has been amended to indicate that it is being made under the *RTA* and all references in this decision are with respect to the *RTA*.

Issues to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to a monetary award for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Are the landlords entitled to recover the filing fee for this application from the tenant?

Background and Evidence

Both parties agreed that this month to month tenancy began in October 2013. Monthly rent in the amount of \$550.00 is payable on the first day of each month. The landlord stated that a security deposit of \$275.00 was paid by the tenant and the landlord continues to retain this deposit. The tenant stated that she did not pay a security deposit and that no reference was made to a security deposit in the tenancy agreement. The landlord did not have a copy of the tenancy agreement at the time of the hearing, while the tenant did. Neither party provided a copy of the tenancy agreement for this hearing. The tenant continues to reside in the rental unit. The landlord testified that the manufactured home park was sold to the landlord company in February 2015 and that this tenancy was transferred to the landlord company at that time. The landlord confirmed that the park was previously owned by his father and another landlord company.

The landlords issued the 10 Day Notice, indicating that rent in the amount of \$550.00 was due on March 1, 2015. Both parties agreed that the tenant made partial payments

towards March 2015 rent and a \$25.00 late fee as follows: \$190.00 on March 15, \$290.00 on March 18, \$50.00 on March 26 and \$45.00 on April 9. Both parties agreed that the tenant made partial payments towards April 2015 rent as follows: \$50.00 on April 12 and \$350.00 on April 13. Both parties agreed that the tenant was issued receipts for the above payments and that "use and occupancy only" was indicated on these receipts. The tenant provided a copy of these receipts for this hearing. Both parties agreed that the tenant currently owes \$150.00 in rent and \$25.00 for a late fee for April 2015.

The landlords seek an order of possession, a monetary order of \$175.00 and the \$50.00 filing fee for this Application.

Analysis

Pursuant to section 63 of the *RTA*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. The tenant agreed to pay the landlord the total amount of \$175.00 by 3:00 p.m. on April 22, 2015 in full satisfaction of the April 2015 rent and late fee;
2. Both parties agreed that this tenancy will end by 1:00 p.m. on April 30, 2015, by which time the tenant and any other occupants will have vacated the rental unit.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties gave verbal sworn affirmation at the hearing that they understood and agreed to the above settlement terms free of any duress or coercion. Both parties testified that they understood and agreed that the above settlement terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

The landlord stated that he wished to pursue the landlords' Application to recover the filing fee. The tenant opposed the landlords' application to recover the filing fee. As this matter was settled between the parties and I was not required to make a decision on the

merits of this case, I decline to award the \$50.00 filing fee to the landlords. The landlords must bear the cost of the \$50.00 filing fee for their Application.

Conclusion

To give effect to the settlement reached between the parties, and as advised to both parties during the hearing, I issue the attached Order of Possession to be used by the landlords **only** if the tenant and any other occupants on the premises fail to vacate the rental premises by 1:00 p.m. on April 30, 2015. The landlords are provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant and any other occupants do not vacate the premises by 1:00 p.m. on April 30, 2015. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlords' 10 Day Notice, dated March 5, 2015, is cancelled and of no force or effect.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the landlords' favour in the amount of \$175.00. I deliver this Order to the landlords in support of the above agreement for use **only** in the event that the tenant fails to pay \$175.00 to the landlords. The landlords are provided with this Order in the above terms and the tenant must be served with a copy of this Order in the event that the tenant fails to pay \$175.00 to the landlords. Should the landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: April 22, 2015

Residential Tenancy Branch

