



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the *Manufactured Home Park Tenancy Act (the "Act")* for an order of possession for the manufactured home pad site due to cause and to recovery of the filing fee paid for this application.

The landlord's agent (hereafter "landlord") appeared; the tenants did not appear.

The landlord testified that they served each tenant with their Amended Application for Dispute Resolution and notice of hearing by registered mail on May 9, 2015. The landlord supplied receipts showing the tracking number and tracking history of the registered mail, which shows the registered mail was unclaimed by both tenants.

Based upon the submissions of the landlord, I find the tenants were served notice of this hearing in a manner complying with section 82 of the Act and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the manufactured home pad site and to recovery of the filing fee?

Background and Evidence

According to the landlord's documentary evidence, this tenancy began April 1, 2009, and current manufactured home pad rent is \$383.00.

The landlord submitted that they served the tenants a 1 Month Notice to End Tenancy for Cause ("Notice") on April 2, 2015, by registered mail. The Notice listed an effective vacancy date of May 15, 2015. The landlord submitted copies of the registered mail receipts supporting the service of the Notice.

A notice to end the tenancy based upon alleged cause is not effective earlier than one month after the date the tenant receives the notice and the day before the day in the month that rent is payable under the tenancy agreement. In other words, one clear calendar month before the next rent payment is due is required in giving notice to end the tenancy. Section 46 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, the Notice effective date is changed to May 31, 2015.

The causes listed on the Notice alleged that the tenants are repeatedly late in paying rent.

The Notice explained that the tenants had ten (10) days to file an application for dispute resolution at the Residential Tenancy Branch ("RTB") in dispute of the Notice. It also explains that if the tenants did not file an application to dispute the Notice within ten days, then the tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the manufactured home site by the effective date of the Notice.

The landlord's additional relevant documentary evidence included a copy of the Notice and receipts for the rent payments from the tenants since the Notice was issued, on a use and occupancy only basis.

I have no evidence before me that the tenants made an application to dispute the Notice.

Analysis

I accept the landlord's undisputed evidence that the tenants were served a 1 Month Notice to End Tenancy for Cause and did not apply to dispute the Notice within ten days of service or at all. I therefore find the tenants are conclusively presumed under section 40(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and that the landlord is entitled to an order of possession for the manufactured home site effective two (2) days after service of the order upon the tenants.

Pursuant to section 47 of the Act, I grant the landlord a final, legally binding order of possession for the manufactured home site and it is enclosed with the landlord's Decision. If the tenants fail to vacate the manufactured home site pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are subject to recovery from the tenants.

I find that the landlord is entitled to a monetary award of \$50.00 for recovery of the filing fee paid by the landlord for this application, pursuant to section 65 of the Act.

I grant the landlord a final, legally binding monetary order for the amount of their monetary award for the amount of \$50.00, which is enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are subject to recovery from the tenants.

Conclusion

The landlord's application has been approved and they are awarded an order of possession for the manufactured home site and a monetary order for recovery of their filing fee.

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 16, 2015

Residential Tenancy Branch

