



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0829336 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR

Introduction

This hearing dealt with a landlord's application for an Order of Possession for unpaid rent. The tenant did not appear at the hearing. The landlord provided a registered mail receipt, including tracking number, as proof the hearing documents were sent to the tenant via registered mail on May 15, 2015. The landlord testified that the registered mail was sent to the rental site address and that it was returned to sender because it was unclaimed. Section 83 of the Act deems a person to receive documents mailed to them five days after mailing even if the recipient does not pick up or accept their mail so that a party cannot avoid service. Based upon the above, I found the tenant to be deemed served with the hearing documents and I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The tenancy commenced November 1, 2010. A Notice of Rent Increase had been issued on December 3, 2014 to increase the rent from \$303.50 to \$311.00 per month effective April 1, 2015. The tenant has not paid any rent since January 2015. On March 3, 2015 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the door of the manufactured home. The Notice indicates rent of \$682.00 was outstanding as of March 3, 2015 and a stated effective date of March 15, 2015. The landlord explained that the amount appearing on the 10 Day Notice includes unpaid rent and late fees. The tenant did not pay the outstanding rent and did not file to dispute the Notice.

Documentary evidence provided for my review included: a document entitled "Rules and Regulations for [name of mobile home park]"; the Notice of Rent Increase issued December 3, 2014; the 10 Day Notice issued March 3, 2015; a proof of service document for the 10 Day Notice signed by the landlord and a witness; and, the registered mail receipt.

Analysis

Under the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement. Where a tenant does not pay rent the landlord is at liberty to serve a 10 Day Notice to End Tenancy for Unpaid Rent upon the tenant. A tenant in receipt of a 10 Day Notice has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 39(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental site by the effective date of the Notice.

I accept the undisputed evidence before me that the landlord posted a 10 Day Notice on the door of the manufactured home on March 3, 2015 in the presence of a witness. Pursuant to section 83 of the Act, the Notice is deemed to be received by the tenant three days later. Therefore, I find the tenant is deemed to have received the 10 Day Notice on March 6, 2015.

Having found the tenant deemed to be in receipt of the 10 Day Notice on March 6, 2015, the effective date of the Notice automatically changes to read March 16, 2015 under section 46 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice within five days, I find the tenancy ended on March 16, 2015 and the landlord is entitled to regain possession of the rental site. Provided to the landlord with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service.

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 25, 2015

Residential Tenancy Branch

