



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 pursuant to the *Residential Tenancy Act* for:

- an Order of Possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

The landlord and the two tenants, tenant AB ("tenant") and "tenant EB," 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 tenant confirmed personal receipt of the landlord's 1 Month Notice to End Tenancy for Cause, dated February 25, 2015 ("1 Month Notice"), on the same date. In accordance with section 88 of the *Act*, I find that both tenants were duly served with the landlord's 1 Month Notice.

The tenants confirmed receipt of the landlord's application for dispute resolution hearing package ("Landlord's Application"), which was sent by way of registered mail on May 15, 2015. The tenant confirmed that she reviewed the landlord's Application, including all written evidence, prior to this hearing. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were duly served with the Landlord's Application.

The tenant testified that the landlord was served with the tenants' written evidence package on May 28, 2015, by way of registered mail. The tenant was unable to provide a Canada Post tracking number to confirm this service. The landlord indicated that she did not receive the tenants' written evidence. As this matter settled between the parties, I decline to make a finding with respect to service of the tenants' written evidence package.

Preliminary Issues

The landlord confirmed that the manufactured home park owns the manufactured home site ("site"). The landlord confirmed that she owns the manufactured home ("home") and rents it to the tenants. As discussed during the hearing, the *Manufactured Home Park Tenancy Act* ("MHPTA") does not apply to tenancy agreements where the manufactured home and site are both rented to the same tenants, which is stated in section 4(a) of the MHPTA. During the hearing, the landlord confirmed that she wished to amend her Application to apply under the *Residential Tenancy Act* ("Act"), as she did not realize her application was made in error under the MHPTA. In accordance with section 64(3)(c) of the Act, I amend the landlord's application to indicate that it is being made under the Act.

Both parties confirmed that they received a copy of a decision, dated April 20, 2015, made by a different Arbitrator after a previous hearing was held on April 17, 2015. The decision indicates that neither party attended the hearing. The decision dismissed the landlord's application for an order of possession for cause, based on the same 1 Month Notice, with leave to reapply. The landlord has reapplied for an order of possession for cause and to recover the filing fee for this Application, at this hearing.

Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to recover the filing fee for this Application from the tenants?

Background and Evidence

The landlord testified that this tenancy began on October 1, 2014. Monthly rent in the amount of \$1,050.00 is payable on the first day of each month. A security deposit of \$525.00 was paid by the tenants and the landlord continues to retain this deposit. The tenants continue to reside in the home. A written tenancy agreement was provided by the landlord for this hearing.

The landlord seeks an order of possession for cause, based on the 1 Month Notice. The 1 Month Notice indicates an effective move-out date of April 1, 2015. The landlord issued the 1 Month Notice for the following reasons:

- *Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *Tenant has caused extraordinary damage to the unit/site or property/park.*

The landlord indicated that there were “continuous unsanitary conditions” next to the “extraordinary damage” reason on the 1 Month Notice. The landlord claims that the tenants have left debris around the rental unit, attracting rodents. The landlord also seeks to recover the \$50.00 filing fee for her Application from the tenants.

Both parties confirmed that the tenants paid May 2015 rent to the landlord. The tenant confirmed that she left a cheque for June 2015 rent in the mailbox for the landlord to pick up and that the cheque was still there on the morning of this hearing. The landlord confirmed that she would pick up the rent cheque after the hearing on June 3, 2015.

Analysis

Pursuant to section 63 of the *Act*, 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. Both parties agreed that this tenancy will end by 1:00 p.m. on June 30, 2015, by which time the tenants and any other occupants will have vacated the rental unit;
2. The landlord withdrew her Application to recover the \$50.00 filing fee from the tenants.

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 terms as legal, final, binding and enforceable, which settle all aspects of this dispute.

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 landlord **only** if the tenants and any other occupants on the premises fail to vacate the rental premises by 1:00 p.m. on June 30, 2015. The landlord is provided with this Order in the above terms and the tenant(s) must be served with this Order in the event that the tenants and any other occupants do not vacate the premises by 1:00 p.m. on June 30, 2015. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord's 1 Month Notice, dated February 25, 2015, is cancelled and of no force or effect.

The landlord's application to recover the \$50.00 filing fee is withdrawn.

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: June 03, 2015

Residential Tenancy Branch

