



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1027110 BC LTD (WESTSTONE)
VANCOUVER EVICTION SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Manufactured Home Park Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 48;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Manufactured Home Park Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 60; and
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 65.

The tenant did not attend this hearing, which lasted approximately 16 minutes. The landlords' agent, SA ("landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord confirmed that she was an employee of the landlord company "VES" named in this application. The landlord provided a written, signed authorization confirming that VES had authority to represent the numbered landlord company, also named in this application, as an agent at this hearing.

The landlord testified that the tenant was served with the landlords' application for dispute resolution hearing package ("Application") on October 30, 2015, by way of registered mail. The landlords provided a Canada Post receipt and tracking number with their Application. In accordance with sections 82 and 83 of the *Act*, I find that the tenant was deemed served with the landlords' Application on November 4, 2015, five days after its registered mailing.

At the outset of the hearing, the landlord withdrew the landlords' Application for an order of possession. The landlord confirmed that she had received an email on the day before this hearing, confirming that the tenant had removed his manufactured home ("trailer") and vacated the manufactured home site ("site"). Accordingly, this portion of the landlords' Application is withdrawn.

The landlord stated that she wished to withdraw the landlords' Application to retain the tenant's security deposit, as she confirmed that the tenant had not paid a security deposit for this site. Accordingly, this portion of the landlords' Application is withdrawn.

During the hearing, the landlord requested an amendment to increase the monetary claim for unpaid rent to include June and half of December 2015 rent. The landlords included a rent ledger with their Application indicating that rent of \$560.00 for June 2015 was unpaid but inadvertently omitted it from the total monetary amount in the Application. At the time that the landlords filed their Application in October 2015, December 2015 rent was not yet due. Pursuant to section 57(3)(c) of the *Act*, I amend the landlords' Application to increase the monetary claim to include June 2015 rent of \$560.00 and half of December 2015 rent of \$280.00. The tenant is aware that rent is due on the first day of each month as per his tenancy agreement. The tenant continued to reside at the site during the above months. Therefore, the tenant knew or should have known that by failing to pay his rent, the landlords would pursue all unpaid rent at this hearing. For the above reasons, I find that the tenant had appropriate notice of the landlords' claim for increased rent, despite the fact that he did not attend this hearing.

Issues to be Decided

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?

Background and Evidence

The landlord testified that this month-to-month tenancy began on November 7, 2007. Monthly rent in the amount of \$560.00 was payable on the first day of each month. The landlord stated that she does not know when the tenant vacated the site, but that he was still living at the site as of December 10, 2015, the date when a previous Residential Tenancy Branch ("RTB") hearing was held. The file numbers for that previous hearing appear on the front page of this decision. The landlord confirmed that an order of possession was obtained against the tenant during that previous hearing.

The landlords provided a copy of the written tenancy agreement for this hearing. The landlord confirmed that the tenant has a trailer on the site, he rents the site from the landlord, and that this matter properly falls under the *Act*.

The landlord seeks a monetary order of \$3,640.00 for unpaid rent as well as to recover the \$50.00 filing fee. The landlord confirmed that the tenant did not pay rent from June to November 2015 inclusive, in the amount of \$560.00 for each month. The landlords provided a rent ledger to confirm same. The landlord stated that the landlords were only seeking a rental loss of \$280.00 from December 1 to 15, 2015, given that the tenant was still living at the site as of December 10, 2015.

Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlords for damage or loss that results from that failure to comply. However, section 7(2) of the *Act* places a responsibility on landlords claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss.

The landlords provided undisputed evidence that the tenant failed to pay rent totalling \$3,360.00 from June to November 2016. Therefore, I find that the landlords are entitled to \$3,360.00 in rental arrears for the above period.

As per the landlord's evidence, the tenant was still living at the site during a previous RTB hearing. The previous decision indicates that the hearing was held on December 1, 2015, not December 10 as noted by the landlord. The previous decision was issued on December 10, 2015, along with an order of possession against the tenant, as the tenant had not yet vacated the site. Rent of \$560.00 was due on December 1, 2015 and the tenant failed to pay the rent due on that date. I find that the tenant had not yet vacated the site by December 1, 2015. Therefore, I find that the landlords are entitled to \$280.00 in rental loss from December 1 to 15, 2015 and that they have mitigated their losses by only claiming for a half month of rental loss.

As the landlords were successful in this Application, I find that the landlords are entitled to recover the \$50.00 filing fee paid for the Application.

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$3,690.00 against the tenant and the tenant must be served with this Order as soon as possible. Should the tenant 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.

The landlords' Application for an order of possession and to retain the security deposit, 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 *Manufactured Home Park Tenancy Act*.

Dated: December 31, 2015

Residential Tenancy Branch

