



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TIM HUZAR & HOG'S BREATH COFFEE CO. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for An Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on November 15, 2015. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to end the tenancy?

Background and Evidence

This tenancy started on November 1, 2014 as a month to month tenancy. Rent is \$500.00 per month payable in advance of the 1st day of each month. A security deposit of \$250.00 was paid on November 1, 2014. The Landlord said the Tenant is living in the rental unit and he is requesting an Order of Possession with an effective date for as soon as possible.

The Landlord said that the Tenant did not pay \$560.00 of rent arrears and rent for October, 2015. As a result the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent on October 5, 2015 for \$560.00 of unpaid rent.. The Landlord continued to say the Tenant also has unpaid rent for November, 2015 of \$500.00, December, 2015 of \$500.00 and January, 2016 in the amount of \$500.00. The Landlord said his total claim is for \$2,060.00 of unpaid rent and the Landlord requested an Order of Possession for as soon as possible.

The Tenant said she agrees the rent has not been paid but circumstance of the fire in Rock Creek resulted in her losing her social assistance and therefore she was not able to pay the rent. The Tenant said she wanted to pay the rent but she was unable to because of the circumstances she found herself in.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy three days after it was posted on the door of the rental unit, or on October 8, 2015. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than October 13, 2015.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for October, November and December, 2015 and for January, 2016 in the total amount of \$2,060.00.

Further as the Landlords have been successful I order the Landlords to recover the filing fee of \$50.00 from the Tenant.

I award the Landlord with a monetary order for \$2,110.00.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$2,110.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: January 12, 2016

Residential Tenancy Branch

