



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC & FF

Introduction

The Application for Dispute Resolution seeks the following:

- a. A monetary order in the sum of \$2244.
- b. An Order for Possession
- c. An Order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was served on the Tenant by mailing, by registered mail to where the Tenant resides on November 10, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail to where the tenant resides on February 9, 2016. It was subsequently posted on the door as well. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start in 1999.. The rent was \$434 per month payable in advance on the first day of each month. The rent was increased to \$442 per month commencing January 1, 2016. The tenant(s) failed to pay the rent for the months of November 2015 (\$434 is owed), December 2015 (\$434 is owed), January 2016 (\$442 is owed), February (\$442 is owed) and March (\$442 is owed). In addition

the landlord is entitled two months NSF fees totaling \$50.. The tenant(s) have remained in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession. I set the effective date of the Order for Possession for March 31, 2016.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of November 2015 (\$434 is owed), December 2015 (\$434 is owed), January 2016 (\$442 is owed), February (\$442 is owed) and March (\$442). In addition the landlord is entitled two months NSF fees totaling \$50. I dismissed the landlord's claim of \$32.46 for a refund overpayment as I determined the landlord is not entitled to this sum in addition to the other claims she has been awarded. I granted the landlord a monetary order in the sum of \$2244 plus the sum of \$100 in respect of the filing fee for a total of \$2344.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: March 18, 2016

Residential Tenancy Branch

