



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DAWSON & SAWYER CAPITAL INVESTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* ("the Act") for an Order of Possession for Unpaid Rent pursuant to section 39; and authorization to recover the filing fee for this application from the tenant pursuant to section 65.

The tenant did not attend this hearing, although I waited until 9:45 am in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 am. The landlords and landlords' agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

Landlord PM testified that he served the tenant with the 10 Day Notice to End Tenancy on August 3, 2016 by posting it on the tenant's door. The landlord's agent testified that the tenant continues to reside in the rental unit.

I find that the landlord's 10 Day Notice to End Tenancy for Unpaid Rent was sufficiently served in accordance with section 82(2) and 83 of the Act. Landlord PM testified that the landlord's Application for Dispute Resolution ("ADR") was served to the tenant by posting it on the tenant's door on August 25, 2016. Landlord MR testified that he witnessed the service. I find that the tenant was deemed served with the landlord's ADR with Notice of Hearing on August 28, 2016 – 3 days after its posting.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord's agent testified that the current landlord purchased the residential property in July 2016 and they have limited records with respect to the history of the manufacture home park tenancies. He testified that the tenant's rental amount is \$751.00 payable on the first of each month. He testified that the tenant did not pay rent in August 2016, the first month that the new/current landlords were accepting payment. The landlord sought an Order of Possession for the rental unit.

The landlord's agent testified that the tenant has been seen regularly on the residential premises/manufactured home park and that the notices are removed after being posted on the tenant's door. After issuing a 10 Day Notice to End Tenancy on August 3, 2016, the landlord applied for an Order of Possession for unpaid rent for the month of August 2016. The landlord testified that the tenant did not pay rent of \$751.00 due on August 1, 2016 and had not paid rent for September or October 2016.

Analysis

Based on the sworn, undisputed evidence of the landlord and his agent, the tenant failed to pay the August 2016 rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made an application pursuant to section 39(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 39(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by August 13, 2016. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

I note that the landlord's agent testified that the landlord's agent and other tenants have regularly seen this tenant on the residential premises. The landlord's agent also testified that when notices or information are posted on the tenant's door, they are removed shortly thereafter.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. I issue a monetary order against the tenant for \$100.00.

Conclusion

I grant the landlords an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I issue a monetary order to the landlord in the amount of \$100.00.

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 20, 2016

Residential Tenancy Branch