



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR and FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Manufactured Home Park Tenancy Act* ("the Act") for orders as follows:

1. An Order of Possession pursuant to section 48.
2. A monetary order for unpaid rent and late fees pursuant to section 60.
3. To recover the filing fee from the landlord for the cost of this application pursuant to section 65.

The tenant did not appear. The park manager ("VG") appeared on behalf of the landlord. He was given a full opportunity to be heard, to present evidence and to make submissions. VG confirmed that he had permission to speak and make decisions on behalf of the landlord. VG provided evidence that a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") was personally served to the tenant on August 1, 2016. On September 7, 2016, a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") was personally served to the tenant by VG. I find that the landlord served these Notices to the tenant in accordance with section 81(a) of the *Act*.

VG gave sworn testimony that the Application for Dispute Resolution hearing package ("Application for Dispute Resolution") was sent to the tenant by Registered Mail on November 18, 2016. As per section 82 and 83 of the Act, I accept that the tenant was deemed served with the Application for Dispute Resolution hearing package on November 23, 2016, the fifth day after the registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the manufactured home site?

Is the landlord entitled to a monetary order for unpaid rent, a late rental fee and recovery of the filing fee for this application?

Background and Evidence

VG gave evidence that the original lease for the manufactured home park site began on August 1, 2014. The tenant signed a month-to-month lease and paid \$300.00 on the 1st of every month.

On August 1, 2016 the tenant was personally served by the park manager with a 1 Month Notice to End Tenancy for Cause pursuant to section 40(1)(b) of the Act. VG testified that the tenant had permitted three additional people to live in her manufactured home, when park rules did not provide for this. VG explained that these additional people had brought with them numerous pieces of furniture which had been placed on the rental plot, again contrary to park rules.

On September 7, 2016 the landlord applied for a 10 Day Notice to End Tenancy. VG provided evidence that rent had gone unpaid for the months of August and September 2016.

The landlord is also seeking a monetary award of \$1,500.00 for the months of October, November and December 2016 and \$20.00/month in late charges for five months of outstanding rent.

Analysis - Order of Possession – 1 Month Notice

Based on the landlord's undisputed evidence, I am satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and obtain an end to this tenancy for cause. The tenant has not made application pursuant to section 40 of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 40(5) of the *Act*, the tenant's failure to take this action within ten 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 September 1, 2016. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

As I have issued an Order of Possession for cause based on the 1 Month Notice, there is no need for me to consider the subsequent 10 Day Notice issued by the landlord for unpaid rent.

Analysis - Monetary Order for Rental Arrears

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

Based on the landlord's undisputed evidence and testimony, I find that the landlord is entitled to receive an order for unpaid rent of \$300.00 for each of the months of August, September, October, November and December 2016 (totalling \$1,500.00). The landlord testified that their park has a policy of charging a \$20.00 late payment fee for all rents received past their due date. Page 22 of the evidentiary package provided to the Residential Tenancy Branch demonstrates that this fee has consistently been applied to rent past due. 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 the attached monetary order that includes the landlord's application for \$1,500.00 in unpaid rent for the months listed above, \$100.00 for the late payments fee and a recovery of the \$100.00 filing fee.

Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. The landlord will be given a formal Order of Possession which must be served on the tenant. Should the tenant or any other occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I am making an Order in favour of the landlord as follows:

Item	Amount
Rental Arrears for August 2016	\$300.00
Rental Arrears for September 2016	300.00
Rental Arrears for October 2016	300.00
Rental Arrears for November 2016	300.00
Rental Arrears for December 2016	300.00
Recovery of Filing Fee	100.00
Late Payment Fees	100.00
Total Monetary Award	\$1,700.00

The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial 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 *Residential Tenancy Act*.

Dated: December 19, 2016

Residential Tenancy Branch