



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 532451 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession based upon a 1 Month Notice to End Tenancy for Cause dated October 24, 2016. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and Procedural Matters

The landlord had named two co-tenants on the application; however, only one of the named tenants was served with notification of this proceeding. I heard from the parties that the other tenant no longer resides at the rental site. I amended the application to exclude the other tenant as a named party, with consent.

The landlord had also indicated on the application that it was seeking an Order of Possession for unpaid rent and an order ending the tenancy early. I determined that a 10 Day Notice to End Tenancy for Unpaid Rent had not been served upon the tenant and I informed the parties that an Order of Possession for unpaid rent is not an available remedy. The landlord's counsel also confirmed that an early end of tenancy due to urgent and dire circumstances is not applicable. The landlord confirmed that the only issue to determine is whether the landlord is entitled to an Order of Possession for cause. Accordingly, I amended the application, with consent, to remove the two remedies described above.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

It was undisputed that the tenancy started on October 24, 2013 and the tenant is obligated to pay rent of \$500.36 on the first day of every month. It was undisputed that the tenant has not paid rent since July 2016 and on October 24, 2016 the manager personally served the tenant with a 1 Month Notice to End Tenancy for Cause ("1 Month Notice").

The 1 Month Notice before me is in the approved form and identifies the landlord and tenant and rental site; is signed and dated by the manager; and, provides an effective date and reason for ending the tenancy.

The tenant did not file an Application for Dispute Resolution to dispute the 1 Month Notice and remains in possession of the rental site. The landlord seeks an Order of Possession effective as soon as possible.

Analysis

The Notice to End Tenancy before me was issued pursuant to section 40 of the Act. Under section 40(4), a tenant who receives a 1 Month Notice has 10 days to file an Application for Dispute Resolution to dispute the Notice. If a tenant does not file to dispute the Notice, pursuant to section 40(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Under section 48(2) of the Act, a landlord may request an Order of Possession where "a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired".

In this case, it is undisputed that the tenant was served with a 1 Month Notice under section 40 of the Act and the tenant did not file an Application for Dispute Resolution to dispute it. Accordingly, I find the tenant is conclusively presumed to have accepted that the tenancy would end on the effective date of December 1, 2016. Therefore, I find the landlord is entitled to an Order of Possession as provided under section 48(2) of the Act.

Considering the tenant has not paid rent for several months I grant the landlord's request for an Order of Possession effective as soon as possible. Provided to the

landlord with this decision is an Order of Possession effective two (2) days after service upon the tenant.

As the landlord was successful in this application, I award the landlord recovery of the \$100.00 filing fee. Provided to the landlord is a Monetary Order in the amount of \$100.00 to serve and enforce upon the tenant.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been provided a Monetary Order in the amount of \$100.00 to recover the filing fee paid for this application from the tenant.

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 16, 2017

Residential Tenancy Branch