



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing was conducted by conference call in response to the Landlord's Application for Dispute Resolution (the "Application") filed on April 6, 2017 requesting an Order of Possession to end the tenancy for cause.

The Landlord appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. However, there was no appearance by the Tenant during the ten minute hearing or any submission of evidence prior to the hearing.

The Landlord testified that he served the Application and the Hearing Package to the Tenant by registered mail on April 10, 2017 to the Tenant's mail box in the manufactured home park. The Landlord provided the Canada Post tracking number into evidence to verify this method of service.

The Canada post website shows that the documents were delivered to the Tenant on April 12, 2017. However, there is insufficient evidence as to whether the Tenant signed or received the documents.

Section 83(a) of the *Manufactured Home Park Tenancy Act* (the "Act") provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail. As a result, based on the undisputed evidence of the Landlord, I find the Tenant was deemed served the documents for this hearing on April 15, 2017 pursuant to the Act. The hearing continued to hear the undisputed evidence of the Landlord.

Issue(s) to be Decided

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

Background and Evidence

The Landlord testified that this tenancy started four years ago on a month to month basis. The Tenant was required to pay rent in the amount of \$500.00 on the first day of each month. The Landlord testified that the Tenant has not paid rent since March 2017 and is unsure of whether the Tenant has abandoned the rental site.

The Landlord testified that the Tenant was personally served with a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") on February 1, 2017. The Tenant signed a Proof of Service document, along with the Landlord's witness, to verify this method of service.

The 1 Month Notice provides a vacancy date of February 1, 2017 which the Landlord acknowledged was a clerical error.

Analysis

I have carefully considered the undisputed affirmed testimony and the documentary evidence before me in this Decision as follows.

Sections 40(4) and (5) of the Act states that within ten days of a tenant receiving a 1 Month Notice, a tenant may make an application to dispute it; if the tenant fails to do so, then they are conclusively presumed to have accepted the 1 Month Notice and must vacate the rental site on the vacancy date.

Having examined the 1 Month Notice provided into evidence, I find the contents on the approved form complied with the requirements of Section 45 of the Act. I accept the undisputed evidence before me that the Tenant was personally served the 1 Month Notice on February 1, 2017. Therefore, the Tenant would have had until February 11, 2017 to file a tenant's application for dispute resolution to dispute it. There is no evidence before me that the Tenant filed an application to dispute it.

Section 46 of the Act allows an incorrect vacancy date on notice to end tenancy to self-correct. In addition, Section 40(2) of the Act states that the one month period provided under the 1 Month Notice must account for one full rental months of notice. Therefore, the vacancy date on the 1 Month Notice is corrected to March 31, 2017.

As a result, I find the Tenant is conclusively presumed to have accepted the tenancy ended on March 31, 2017. As the vacancy date has now passed and the Tenant has

not paid rent, the Landlord is granted a two day Order of Possession to end the tenancy.

This order must be served to the Tenant and may then be filed and enforced in the Supreme Court of British Columbia as an order of that court if the Tenant fails to vacate the rental site. Copies of this order are attached to the Landlord's copy of this Decision. The Tenant may also be held liable for any costs incurred by the Landlord for having to enforce the order.

Conclusion

The Tenant failed to dispute the 1 Month Notice or appear for the hearing. The Landlord is issued with a two day Order of Possession to end the tenancy. This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: May 15, 2017

Residential Tenancy Branch