



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STONEWATER VENTURES #110 LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR

Introduction

These proceedings were initiated by way of a Direct Request Proceeding but were reconvened as a participatory hearing, as the Adjudicator at the Direct Request Proceeding had a question regarding reinstatement of the tenancy.

This hearing was convened to consider the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent.

The Agent for the Landlord stated that on May 01, 2017 the Application for Dispute Resolution by Direct Request and the evidence submitted with that Application were personally served to the Tenant. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 82 of the *Manufactured Home Park Tenancy Act (Act)*.

The Agent for the Landlord stated that on May 02, 2017 the Notice of Hearing was personally served to the Tenant. In the absence of evidence to the contrary I find that the Notice of Hearing was served in accordance with section 82 of the *Act*; however the Tenant did not appear at the hearing. As the Notice of Hearing was served to the Tenant, I am proceeding with the hearing in the absence of the Tenant.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began on May 06, 2013;
- the Tenant is currently required to pay monthly rent of \$485.00 by the first day of each month;
- the Tenant did not pay the rent when it was due on April; 01, 2017;
- on April 04, 2017 a Ten Day Notice to End Tenancy for Unpaid Rent was personally served to the Tenant;
- on April 17, 2017 the Tenant paid all the rent due for April plus an additional \$35.00;
- the Tenant left the rent payment for April with a neighbour;
- the Agent for the Landlord spoke with the Tenant after the April rent payment was made and told him that the tenancy would end regardless of the payment;
- when she spoke with the Tenant he told her that the additional \$35.00 payment was for “her trouble” and that she should use it to buy lunch; and
- rent has not been paid since April 17, 2017.

The Landlord is seeking an Order of Possession that is effective on June 30, 2017.

Analysis

Section 39 of the *Act* authorizes a landlord to end a tenancy, by providing proper notice, if rent is not paid when it is due.

On the basis of the undisputed evidence I find that the Tenant was served with a Ten Day Notice to End Tenancy for Unpaid Rent that declared the site must be vacated by April 17, 2017, pursuant to section 39 of the *Act*.

Section 39(4) of the *Act* stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice to End Tenancy. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 39(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. On this basis I will grant the Landlord an Order of Possession that is effective on June 30, 2017.

On the basis of the testimony of the Agent for the Landlord and in the absence of any evidence from the Tenant, I find that this tenancy has not been reinstated.

Conclusion

The Landlord has been granted an Order of Possession **that is effective at 1:00 p.m. on June 20, 2017.** This Order may be served on the Tenant, filed with the Supreme Court of British Columbia 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 *Act*.

Dated: June 08, 2017

Residential Tenancy Branch