



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for:

- an Order of Possession pursuant to section 48; and
- authorization to recover the filing fee from the tenant pursuant to section 65.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), dated December 6, 2018 was served personally on the tenant on that date. The landlord provided a signed Proof of Service form as evidence of service. Based on the evidence and testimony I find that the tenant was served with the 1 Month Notice on December 6, 2018 in accordance with section 81 of the Act.

The landlord testified that the landlord's application for dispute resolution dated December 27, 2018 and evidentiary materials were served on the tenant personally on that date. Based on the landlord's testimony I find that the tenant was served with the landlord's application package in accordance with sections 82 and 83 of the Act on December 27, 2018.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord provided the following facts. This tenancy began in or about 2012. The current monthly rent is \$160.00 payable by the 1st of each month. The tenant failed to pay the rent by the due date in June, July, August, October and November of 2018. The landlord further testified that the tenant has not paid rent for February 2019 and that there is a rental arrear owing. The landlord served the tenant with the 1 Month Notice indicating among the reasons for the tenancy to end is that the tenant has been repeatedly late paying rent. In addition the landlord indicated on the 1 Month Notice that the tenant significantly interfered with other residents and seriously jeopardized their health or safety. The landlord testified that the tenant's dog has attacked and injured other dogs in the park and poses a danger to the residents. The landlord submitted into evidence a copy of a veterinary record showing the injuries suffered by other dogs in the park. The landlord said they are not aware of the tenant having filed an application to dispute the 1 Month Notice.

Analysis

Section 40 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I accept the evidence that the tenant has failed to file an application for dispute resolution within the 10 days of December 6, 2018 granted under section 40(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 40(5) of the *Act* to have accepted that the tenancy ends on the corrected effective date of the 1 Month Notice, January 31, 2019.

I find that the landlord's 1 Month Notice meets the form and content requirements of section 45 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit, the effective date of the notice and the reasons for ending the tenancy. I accept the evidence of the landlord that the tenant has been repeatedly late paying rent giving rise to the cause for ending the tenancy. Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 48 of the *Act*. As the effective date of the 1 Month Notice has passed, I issue an Order of Possession effective 2 days after service.

As the landlord's application was successful the landlord is also entitled to recover the filing fee.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$100.00. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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 *Manufactured Home Park Tenancy Act*.

Dated: February 7, 2019

Residential Tenancy Branch