



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on March 18, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Mobile Home Park Tenancy Act* (the "Act"):

- an order of possession for a mutual agreement to end tenancy; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 11:00 A.M. on May, 3 2019 as a teleconference hearing. The Landlord appeared and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 12 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord and I were the only persons who had called into this teleconference.

The Landlord testified that the Application and documentary evidence package was served on the Tenant by registered mail on March 19, 2019. The Landlord provided the tracking number in support. Based on the oral and written submissions of the Landlord, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on March 24, 2019, the fifth day after the registered mailing.

The Landlord was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However,

only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for a mutual agreement to end tenancy, pursuant to Section 48 of the *Act*?
2. Is the Landlord entitled to the return of the filing fee, pursuant to Section 65 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on November 1, 2018. Currently rent in the amount of \$500.00 is due to the Landlord each month. The Tenant did not pay a security deposit and continues to occupy the rental pad.

The Landlord testified that the parties entered into a mutual agreement to end tenancy on March 6, 2019. The Landlord stated that the parties signed the mutual agreement to end tenancy agreeing that the tenancy would end on March 16, 2019. The Landlord submitted the mutual agreement to end tenancy in support which was also signed by a witness.

The Landlord stated that the Tenant continues to occupy the rental site; therefore, the Landlord is seeking an order of possession based on the mutual agreement to end tenancy.

If successful, the Landlord is also seeking the return of the filing fee paid to make the Application.

Analysis

Based on the uncontested affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

According to Section 48 of the *Act*, a Landlord can request an order of possession of a mobile home site if the Landlord and Tenant have agreed in writing that the tenancy is ended.

I accept the Landlord's undisputed testimony that the Landlord and the Tenant entered into a mutual agreement to end tenancy on March 6, 2019 with an effective vacancy

date of March 16, 2019. The Landlord submitted a copy of the mutual agreement to end tenancy which was also witnessed. The Landlord testified that the Tenant continues to occupy the site.

In light of the above, pursuant to Section 48 of the *Act*, I find that the Landlord has established an entitlement to an Order of Possession to be effective two days after the notice is served on the Tenant.

As the Landlord was successful with their Application I find that he has established an entitlement to the return of the \$100.00 filing fee paid to make the Application.

Conclusion

The parties have mutually agreed to end the tenancy. Pursuant to Section 48 of the *Act*, I grant the Landlord an Order of Possession to be effective two days after notice is served on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to Section 65 of the *Act*, I grant the Landlord a Monetary Order for \$100.00. In the event that the Tenant does not comply with this Order, it may be filed with the Province of British Columbia Small Claims 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: May 03, 2019

Residential Tenancy Branch