



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OAKDALE MOBILE HOME PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

FFL MNRL OPC

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;
- a monetary award for unpaid rent and losses pursuant to section 60; and
- authorization to recover the filing fee from the tenants pursuant to section 65.

The tenants did not attend this hearing, which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing. The Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by its agent (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's application for dispute resolution and evidence was served on the tenant by registered mail sent on or about July 10, 2019. The landlord provided a Canada Post tracking number as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on July 15, 2019, five days after mailing, in accordance with sections 81, 82 and 83 of the *Act*.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord testified that the amount indicated on the application is a typographic error and the actual amount of the rental arrears for this tenancy is \$1,545.63. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure, as corrected a typographic error is reasonably foreseeable, I amend the landlord's Application to increase the landlord's monetary claim from \$0.01 to \$1,545.63.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?
Is the landlord entitled to a monetary award as claimed?
Is the landlord entitled to recover the filing fee from the tenants?

Background and Evidence

This tenancy began in or about 2016. The monthly rent is \$487.21 payable by the first of each month. The tenancy agreement provides that an NSF fee of \$42.00 applies to failed payments. A copy of the written tenancy agreement was submitted into evidence.

The landlord testified that the tenant has engaged in behaviour and conduct that has led to multiple complaints by occupants of the park. The landlord submitted into evidence copies of written complaints against the tenants. The complaints pertain to hostile interactions, noise infractions and various disruptive conduct. The landlord issued the 1 Month Notice dated June 7, 2019, serving it on the tenant by posting on the rental unit door on that date. The 1 Month Notice indicates the reasons for the tenancy to end as:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*

Tenant has engaged in illegal activity that has, or is likely to:

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;*

The landlord testified that the tenant has failed to pay the monthly rent for this tenancy and there is a rental arrear of \$1,545.63 as at the date of the hearing, August 30, 2019.

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. Based on the evidence of the landlord I

find that the tenant is deemed to have been served with the 1 Month Notice on June 10, 2019, three days after posting in accordance with sections 81 and 83 of the *Act*.

I accept the evidence that the tenant has failed to file an application for dispute resolution within the 10 days of June 10, 2019 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, July 30, 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 engaged in behavior that has been a source of significant interference and unreasonable disturbance of other occupants and the landlord and that they have adversely affected the quiet enjoyment, security, safety and well-being of the other occupants. 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.

Section 60 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$1,545.63. I issue a monetary award in the landlords' favour for unpaid rent and late fees of \$1,545.63 as at August 30, 2019, the date of the hearing, pursuant to section 60 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

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 \$1,645.63 which allows the landlord to recover unpaid rent, late fees and the filing fee for their application. The tenants must be served with this Order as soon as possible. Should the tenants 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: August 30, 2019

Residential Tenancy Branch