



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PORT4HOMES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

FFL OPC CNC FFT MT

Introduction

This hearing dealt with applications from both the landlord and tenant pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”).

The landlord applied 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 applied for:

- More time to file their application pursuant to section 59;
- Cancellation of the 1 Month Notice to End Tenancy for Cause pursuant to section 40; and
- Authorization to recover the filing fee from the landlord pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agents.

The tenant confirmed receipt of the landlord’s 1 Month Notice dated October 8, 2019. The tenant testified that they had not served the landlord with their application for dispute resolution as they had lost the forms. The landlord confirmed they have not been served.

The landlord testified that they served the tenant with their application for dispute resolution and evidence and the tenant confirmed they have been served with the

materials. Based on the testimonies I find that the tenant was served with the landlord's materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the tenant be granted additional time to file their application? Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession? Is either party entitled to recover the filing fee from the other?

Background and Evidence

Monthly rent for this tenancy is payable by the first of each month. The rent owing for the pertinent months was \$504.00. The tenant was late in paying rent for December 2018, May 2019 and October 2019. The tenant confirmed that they were late in making payment for those months as they had other creditors.

The tenant testified that they have not served the landlord with their application for dispute resolution as they had lost their materials. The tenant stated that they felt bullied by the landlord who demands exact payment of rent on the date that it is due.

Analysis

In accordance with section 52 of the *Act*, an application for dispute resolution must be served on the other party in a manner of service allowed under section 82. In the present case the tenant testified that they have not served the landlord with their application at all. The tenant gave unconvincing and inconsequential excuse that they had misplaced their own application and could not serve the landlord.

As the landlord has not been served with the tenant's application, I dismiss the tenant's application in its entirety.

Section 48 of the *Act* provides that:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director ***must*** grant to the landlord an order of possession of the manufactured home site if

- (a) the landlord's notice to end tenancy complies with section 45 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the 1 Month Notice submitted into evidence complies with the form and content requirement of the Act as it is signed and dated by the landlord, provides the address of the home site, the effective date of the notice, and the grounds for the tenancy to end; the repeated late payment of rent.

I accept the evidence of the parties that the tenant has been late in paying rent for three months during the past year.

Residential Tenancy Policy Guideline 38 provides that three late payments within one year is considered the minimum number to justify a notice to end tenancy.

I accept the parties' evidence that the tenant was late in making rent payment for December 2019, May 2019, and October 2019. I find that these late payments made within a one-year span constitute repeated late payment of rent. Accordingly, I find that the landlord has shown on a balance that there is cause to end this tenancy. I do not find the tenant's explanation that they had other creditors to be a reasonable excuse for not paying the rent when it is due. The tenant's mishandling of their finances and incurring multiple debts is due to their own actions and does not give rise to a right to fail to pay rent when it is due.

Accordingly, I issue an Order of Possession in the landlord's favour. As the effective date of the 1 Month Notice has passed I issue an Order effective 2 days after service.

As the landlord was successful in their application they are entitled to recover the filing fee.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days after service on the tenant(s)**. Should the tenant or any occupant 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: December 12, 2019

Residential Tenancy Branch