



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PORTER RAMSAY LLP
and [tenant name suppressed to protect
privacy]

DECISION

Dispute Codes OPR-DR

Introduction

This hearing dealt with an Application for Dispute Resolution by Direct Request that was made on March 10, 2020 and adjourned to a participatory hearing. This hearing was convened pursuant to the Landlord's Application seeking the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- an order of possession for unpaid rent.

The Tenant and the Landlord's Agent C.W. attended the hearing at the appointed date and time. C.W. testified that he served the Landlord's Application and documentary evidence package to the Tenant in person on April 2, 2020. The Tenant confirmed receipt. Pursuant to section 81 and 82 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were 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, pursuant to Section 48 of the *Act*?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on August 1, 2017. The Tenant is required to pay rent in the amount of \$550.00 to the Landlord on the first day of each month. The Tenant did not pay any deposits and the Tenant continues to occupy the rental pad.

C.W. testified the Tenant did not pay rent when due for March 2020. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 3, 2020 (the "10 Day Notice") with an effective vacancy date of March 18, 2019. At that time, rent in the amount of \$550.00 was outstanding. The Landlord testified he served the 10 Day Notice to the Tenant in person on March 3, 2020.

C.W. stated that he received an e-transfer on behalf of the Tenant on March 13, 2020 in the amount of \$550.00. C.W. stated that the payment was later cancelled on March 20, 2020, therefore, the Landlord was unable to accept the transfer.

In addition, the Landlord testified that the Tenant also failed to pay rent when due for April and May 2020. The Landlord stated that currently, rent in the amount of \$1,650.00 is outstanding, and the Tenants continue to occupy the rental pad. C.W. stated that the Landlord is not seeking monetary compensation for unpaid rent at this time, however, is seeking an order of possession based on the unpaid rent.

During the hearing, the Tenant confirmed that she is required to pay rent in the amount of \$550.00 which is due on the first day of each month. The Tenant confirmed that she failed to pay rent to the Landlord on March 1, 2020. The Tenant confirmed that she received the 10 Day Notice served to her in person on March 3, 2020. The Tenant stated that she did not dispute the 10 Day Notice. The Tenant stated that the rent payment had been made on March 13, 2020 and that the Landlord did not accept the e-transfer. The Tenant stated that she did not pay rent for April and May 2020 as she wanted to wait and see the outcome of this dispute resolution hearing.

Analysis

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

Section 20 of the Act states that a Tenant must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the Act, the regulations, or the tenancy agreement, unless the Tenant has a right under this Act to deduct all or a portion of the rent.

Section 39 of the Act states a Landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

The Landlord's Agent served the Tenant in person with the 10 Day Notice dated March 3, 2020 with an effective vacancy date of March 18, 2019. The Tenant confirmed receipt on March 3, 2020.

Section 39(4) says that within 5 days after receiving a notice under this section, the Tenants may either pay the overdue rent, in which case the notice has no effect, or

dispute the notice by making an application for dispute resolution. Therefore, the Tenant had until March 8, 2020 to either pay the outstanding rent owed to the Landlord in full, or make an Application for dispute resolution.

During the hearing, the Tenant confirmed that she did not dispute the Notice and that the rent was not paid by March 8, 2020. As the Tenant did not pay all the rent owed according to the 10 Day Notice within 5 days and there is no evidence before me that the Tenant disputed the 10 Day Notice, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the corrected effective date of the 10 Day Notice, March 13, 2020, pursuant to section 39(5) of the *Act*.

I find that the 10 Day Notice complies with the requirements for form and content and I find that the Landlord is entitled to an order of possession effective 2 (two) days, after service on the Tenant, pursuant to section 48 of the *Act*. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The Tenant breached Section 20 of the *Act* by not paying rent when due to the Landlord. The Tenant is conclusively presumed to have accepted the end of the tenancy. The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. If the Tenants fail to comply with the order of possession it may be filed in and enforced as an order of the Supreme Court of British Columbia.

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 12, 2020

Residential Tenancy Branch