



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ZAM Enterprises Ltd.
and [tenant name suppressed to protect privacy]

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 teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the notice of hearing and evidence by registered mail sent on April 22, 2020. The landlord submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on April 27, 2020, five days after mailing, in accordance with sections 81, 82 and 83 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover their filing fee from the tenants?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. The monthly rent for this periodic tenancy is \$345.40 payable on the first of each month.

The landlord issued a 1 Month Notice to End Tenancy for Cause dated March 10, 2020. The reasons provided on the notice for the tenancy to end are:

Tenant is repeatedly late paying rent

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

- significantly interfered with or unreasonably disturbed another occupant or the landlord

Tenant has not done required repairs of damage to the unit/site/property/park

The 1 Month Notice was served on the tenant by registered mail sent on March 10, 2020. The landlord provided a valid Canada Post tracking receipt as evidence of service.

The landlord submits that the tenant has failed to pay their rent by the first of each month for several recent months. The landlord has issued 10 Day Notices to End Tenancy for Unpaid Rent on each occasion. The landlord submits that the tenant has been late paying rent for the months of December 2019, January, February and March, 2020.

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 find that the tenant is deemed served with the 1 Month Notice on March 15, 2020, five days after mailing, in accordance with sections 81 and 83 of the *Act*. I find that the tenant has failed to file an application for dispute resolution within 10 days of March 15, 2020, the timeline 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, April 30, 2020.

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.

Residential Tenancy Policy Guideline 38 provides that three late payments are the minimum number to justify a notice to end tenancy. I accept the landlord's evidence that the tenant has been late paying rent for the majority of the past year. I am satisfied with the documentary evidence of the landlord including their ledger and multiple 10 Day Notices issued on each occasion that the rent was not paid on the due date.

The 1 Month Notice is dated March 10, 2020 and was issued prior to the *Ministerial Order M089* issued March 30, 2020 pursuant to the State of Emergency declared on March 18, 2020. Therefore, in accordance with section 12(2)(b) of the Ministerial order and pursuant to section 48 of the *Act*, I find that the landlord is entitled to an Order of Possession.

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. I issue a monetary award in the landlord's favour in that amount accordingly.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. 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: June 5, 2020

Residential Tenancy Branch