



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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:

1. An Order of Possession pursuant to Section 48 of the Act; and,
2. Recovery of the filing fee pursuant to Section 65 of the Act.

The hearing was conducted via teleconference. The Landlord and the Tenant attended the hearing at the appointed date and time and provided affirmed testimony. Both parties were each given a full opportunity to be heard, to make submissions, and to call witnesses.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The Notice of Dispute Resolution Proceeding and evidence was served personally by the Landlord on the Tenant on July 14, 2021 (the "Notice"). The Tenant testified that he received the Notice, he said it was dated July 13, 2021. I find the Notice was served according to Section 82(1)(a) of the Act.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

This periodic tenancy began on May 7, 2011. Monthly rent is \$380.39 payable on the first day of each month. The Tenant testified that he is paid up to date for his rent.

The Landlord served a One Month Notice to End Tenancy for Cause on June 4, 2021 by posting on the Tenant's door (the "Notice to End"). The Landlord provided proof of service of the Notice to End. The Tenant confirmed the Notice to End was taped to his door and on his windows.

The Landlord applied for an Order of Possession on June 21, 2021.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

The Landlord's One Month Notice is based on Section 40 of the Act which states a landlord may end a tenancy by giving notice to end the tenancy if one or more of several conditions apply. The notice must comply with Section 45, form and content of the notice to end tenancy. A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice, but if the tenant does not make an application for dispute resolution, then the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the manufactured home site by that date.

I find that the Notice to End was served in accordance with Section 81(g) and was deemed served on June 7, 2021 pursuant to Section 83(c) of the Act. I also find the Notice to End complies in form and content pursuant to Section 45 of the Act.

The Tenant had until June 17, 2021 to apply for dispute resolution but did not. It is not necessary for me to determine if the Tenant acted as alleged by the Landlord on the Notice to End. In accordance with Section 40(5) of the Act, I find the Tenant is conclusively presumed to have accepted that the tenancy has ended on the date on the Notice to End and must vacate the manufactured home site by October 31, 2021.

The Landlord is successful in her claim, so I find is entitled to recovery of the filing fee for this application.

Conclusion

Pursuant to Section 48(2)(b) of the Act, I grant an Order of Possession to the Landlord effective October 31, 2021. I order that the Landlord serve the Order of Possession on the Tenant immediately upon its receipt, in accordance with Section 81 of the Act. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the British Columbia Supreme Court.

Pursuant to Section 65(1) of the Act, I grant the Landlord a Monetary Order in the amount of \$100.00, and 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 of British Columbia 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 Act.

Dated: October 20, 2021

Residential Tenancy Branch