



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HEART HAVEN CAMPGROUND and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPC

Introduction

The hearing was convened in response to an Application for Dispute Resolution filed by the Landlord, in which the Landlord applied for an Order of Possession for Cause.

The female Landlord stated that on August 26, 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on August 18, 2021 was posted on the Tenant's door. The Tenant acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

On November 12, 2021 the Landlord submitted additional evidence to the Residential Tenancy Branch. The female Landlord stated that this evidence was personally served to the Tenant on November 12, 2021. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On November 16, 2021 the Landlord submitted additional evidence to the Residential Tenancy Branch. The female Landlord stated that this evidence was posted on the Tenant's door on November 16, 2021. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On November 29, 2021 the Landlord submitted additional evidence to the Residential Tenancy Branch. The female Landlord stated that this evidence was posted on the Tenant's door on November 29, 2021. The Landlord stated that this evidence was not received. As the Tenant does not acknowledge receipt of this evidence and it was not served in accordance with the timelines established by the Residential Tenancy Branch Rules of Procedure, it was not accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Preliminary Matter

This hearing was scheduled to commence at 11:00 a.m. on December 14, 2021. The Tenant did not attend the hearing until 11:09 a.m.

The information discussed prior to 11:09 a.m. was repeated for the Tenant and he was given the opportunity to give evidence relating to matters discussed prior to his attendance.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession?

Background and Evidence

The Landlord and the Tenant agree that the tenancy began sometime prior to October 08, 2020 and that rent is due by the first day of each month.

The female Landlord stated that a One Month Notice to End Tenancy for Cause was posted on the Tenant's door on July 26, 2021. The One Month Notice to End Tenancy for Cause is dated July 26, 2021; it cites several reasons for ending the tenancy; and it declares that the rental site must be vacated by August 31, 2021.

The Tenant acknowledged receiving the aforementioned One Month Notice to End Tenancy for Cause, which was posted on his door, although he does not recall the date it was received. The Tenant stated that he did not file an Application for Dispute Resolution to dispute the One Month Notice to End Tenancy for Cause.

The Tenant stated that he has not paid rent for December of 2021. The female Landlord stated that the Tenant has paid his rent in full, including for December of 2021, and that his rent has been accepted on the basis of "use and occupancy only" since August of 2021.

Analysis

On the basis of the undisputed evidence, I find that the Tenant received a One Month Notice to End Tenancy for Cause, pursuant to section 40 of the *Manufactured Home Park Tenancy Act (Act)*, which was posted on his door on July 26, 2021 and which declared the rental site must be vacated by August 31, 2021.

Section 40(5) of the *Act* stipulates that tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 40 of the *Act* and that the tenant must vacate the rental unit by that date unless the tenant disputes the notice within ten days of receiving it. As there is no evidence that the Tenant filed an Application for Dispute Resolution to dispute the One Month Notice to End Tenancy for Cause dated July 26, 2021, I find that the Tenant is conclusively presumed to have accepted that the tenancy was ending on August 31, 2021, pursuant to section 40(5) of the *Act*.

As the Tenant is conclusively presumed to have accepted that the tenancy was ending on August 31, 2021, pursuant to section 40(5) of the *Act*, the Landlord's application for an Order of Possession is granted.

Conclusion

I grant the Landlord an Order of Possession that is effective at 1:00 on December 31, 2021. This Order may be served on the Tenant, filed with the Supreme 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: December 14, 2021

Residential Tenancy Branch