



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR 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 for unpaid rent pursuant to section 48; and
- authorization to recover the filing fee for this application from the tenant 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 landlord was represented by an agent and counsel.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The tenant testified that they received the landlord's materials and served no evidence of their own. Based on the testimonies I find the tenant duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. The monthly rent for this tenancy is \$280.00 payable on the first of each month. The tenant failed to pay the rent as required under the tenancy agreement for several months and there was an arrear of \$1,220.00 on July 3, 2021 when the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent. The tenant did not file an application to dispute the 10 Day Notice. The tenant paid \$1,000.00 on July 8, 2021 against the arrear. The landlord issued a receipt indicating the partial payment was accepted for use and occupancy only and did not reinstate the tenancy. The landlord has issued receipts for all subsequent payments stating they were accepted for use and occupancy only.

Analysis

Based on the testimony of the parties I find the tenant was obligated to pay \$280.00 on the first of each month pursuant to the tenancy agreement. I am satisfied with the evidence of the parties that the tenant failed to make payments as required and there was an arrear of \$1,220.00 as at July 3, 2021 giving rise to the issuance of the 10 Day Notice.

The parties gave testimony confirming the tenant was served with the 10 Day Notice on July 3, 2021. I find the copy of the notice submitted into evidence meets the form and content requirements of section 45 as it is in the prescribed form and is signed and dated by the landlord, gives the address of the manufactured home site, the effective date of the notice and the grounds for the tenancy to end.

I accept the undisputed evidence of the parties that the tenant failed to pay the full amount of the overdue rent or file an application for dispute resolution within 5 days of receipt of the notice. Accordingly, I find that the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice pursuant to section 39(5).

Therefore, I issue an Order of Possession to the landlord pursuant to section 48. As the effective date of the 10 Day Notice has passed I issue an Order enforceable 2 days after service on the tenant.

As the landlord was successful in their application I issue a monetary award allowing them to recover the \$100.00 filing fee from the tenant.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants 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: January 21, 2022

Residential Tenancy Branch