

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the applicant's application pursuant to section 48 of the *Manufactured Home Park Tenancy Act* (the *Act*) for an Order of Possession for cause. Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The respondents who attended this hearing (the tenants) confirmed that the landlord's representative handed them a copy of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on July 26, 2011. The landlord testified that he sent the tenants and the manufactured home owner a copy of the dispute resolution hearing package by registered mail on September 22, 2011. He provided Canada Post Tracking Numbers to confirm these mailings. The tenants confirmed that they received the landlord's dispute resolution hearing package by registered mail. I am satisfied that the landlord served these notices in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to end this tenancy for cause? Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord entered into written evidence a copy of the Manufactured Home Site Tenancy Agreement (the Agreement) signed by the tenants with the previous owner of this manufactured home park on January 21, 2010. According to the terms of this Agreement, the tenants were to pay the landlord \$260.00 each month for rental of the manufactured home pad. According to the terms of this Agreement for a periodic tenancy, the tenants were to make this payment on the first of each month. Although the tenants do not actually own this trailer, the tenants did not dispute the landlord's claim that the tenants signed the Agreement with the former owner of the manufactured home park who subsequently sold to the applicant/landlord.

The landlord entered undisputed oral and written evidence that the tenants have been frequently late in their payments of their monthly pad rental. He provided a number of receipts demonstrating that the tenants have made partial payments many times during this tenancy. He provided undisputed evidence that they failed to pay their December 2010, February 2011, April 2011, May 2011 and June 2011 rent on time.

The tenants said that they try to contact the owner of the trailer to pay their rent through him but this often does not work because he is unavailable. The tenants testified that

they are presently current with their payments and have money to pay their next monthly payment.

The landlord testified that he has an on-site manager at the manufactured home park and that there is no reason why the tenants could not have paid that manager their monthly pad rental on time.

Analysis

The respondents have not made application pursuant to section 40(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 40(5) of the *Act*, the respondents' failure to take this action within ten days led to the end of this tenancy on the effective date of the notice. In this case, this required the respondents to vacate the premises by September 1, 2011. As that has not occurred, I find that the applicant is entitled to a 7 day Order of Possession. The applicant will be given a formal Order of Possession which must be served on the respondents. If the respondents do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I provide the applicant with a formal copy of an Order of Possession to take effect within 7 days of the applicant's service of this notice to the respondent(s). Should the respondent(s) fail to comply with this Order, this Order may be filed 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*.