



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord and the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause and to a monetary order to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to 40, 48, 60, and 65 of the *Manufactured Home Park Tenancy Act (Act)*.

Background and Evidence

The landlord submitted a copy of a tenancy agreement signed by the parties on September 7, 2010 for a tenancy beginning on September 1, 2010 for a month to month tenancy for a monthly rent of \$255.00 due on the 1st of each month.

The agreement includes an addendum requiring the tenant to install vinyl siding and metal skirting to the manufactured home to be completed no later than December 2010. A revised addendum was signed by the parties on October 5, 2010 to extend the deadline to May 30, 2011.

The tenant had failed to comply with this requirement and as such the landlord applied for Dispute Resolution for an order to have the tenant comply with the agreement for which a decision was provided on August 23, 2011. In that hearing the parties agreed to extend the deadline to September 23, 2011 and that should the tenant fail to meet this deadline the landlord could issue a 1 Month Notice to End Tenancy for Cause.

The landlord provided a copy of a 1 Month Notice to End Tenancy for Cause dated September 24, 2011 with an effective date of October 24, 2011 citing the tenant has breached a material term of the tenancy agreement and has not corrected it within a reasonable period after written notice to do so and that the tenant is in non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order.

The landlord provided a copy of a certificate of service confirming she served the tenant with the Notice to End Tenancy for Cause on September 24, 2011 at 11:21 and that this service was witnessed by a third party.

The Notice states the tenant had 10 days to apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within 10 days.

Analysis

I have reviewed all documentary evidence and testimony and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on September 24, 2011 and the effective date of the notice is amended to October 31, 2011, pursuant to Section 46 of the *Act*. I accept the evidence before me that the tenant failed file an Application for Dispute Resolution within the 10 days granted under Section 40(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 40(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **November 30, 2011 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$50** comprised of the fee paid by the landlord for this application. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: November 04, 2011.

Residential Tenancy Branch