



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Carvolth Housing Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / and a monetary order as compensation for unpaid rent. The landlord's agent attended and gave affirmed testimony.

The landlord's agent testified that the application for dispute resolution and the notice of hearing (the "hearing package") were served by way of registered mail. The landlord's agent testified that the hearing package was also served in-person on the tenant on or about August 23, 2013. Despite this, the tenant did not appear.

Further, the landlord's agent testified that the tenant abandoned the unit on or about September 14, 2013. While the landlord's agent knows of a family member's address by way of which the tenant can be contacted, the tenant herself has not apparently provided the landlord's agent with a forwarding address.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on October 1, 2010. Monthly pad rent is \$705.00.

Arising from rent which remained overdue on July 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 4, 2013. The notice was served by way of registered mail. A copy of the notice was submitted in evidence. The amount of rent shown as overdue on the notice is \$5,345.00, and the date shown on the notice by when the tenant must vacate is July 20, 2013. The Canada Post tracking number for

service of the notice by registered mail was also submitted in evidence, and the Canada Post website informs that the item was “refused by recipient.”

The landlord’s agent testified that the notice was also served in-person on the tenant on July 4, 2013. Subsequently, the tenant made no further payment toward rent and, as previously noted, she abandoned the unit on September 14, 2013.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Division 1 of the Act addresses **How to Give or Serve Documents**:

Section 81: **How to give or serve documents generally**

Section 82: **Special rules for certain documents**

Section 83: **When documents are considered to have been received**

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord’s agent, I find that the hearing package was served in compliance with the Act.

Section 37 of the Act addresses **How a tenancy ends**, and provides in part:

37(1) A tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

(ii) section 39 [*landlord’s notice: non-payment of rent*];

(d) the tenant vacates the manufactured home site or abandons a manufactured home on the site;

I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated July 4, 2013. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 39(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Further to all of the foregoing, I find that the tenant abandoned the unit effective September 14, 2013. In the result, I find that the landlord has established entitlement to an **order of possession**.

As for the **monetary order**, based principally on the affirmed / undisputed testimony of the landlord's agent, I find that the landlord has established entitlement to **\$5,000.00**.

While rent shown as overdue on the 10 day notice totals \$5,345.00, and the tenant made no payment following service of the notice, in line with the \$50.00 fee paid for filing of the application, the landlord's agent limited the amount of compensation sought to \$5,000.00. Related to this, section 7 of the Regulation addresses **Fee for starting application for dispute resolution**, and provides, in part, that for compensation sought in excess of \$5,000.00, a filing fee of \$100.00 must be paid.

Finally, the attention of the parties is drawn to the following related statutory provisions:

The Act:

Section 50: **What happens if a tenant does not leave when tenancy ended**

The Regulation:

Part 6 – Abandonment of Personal Property (Sections 34 to 41).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 60 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$5,000.00**. This order may be served on the tenant, filed in the Small Claims 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: October 1, 2013

Residential Tenancy Branch

