



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WHISPERING PINES VENTURES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR

Introduction

This hearing dealt with an Application for Dispute Resolution filed on January 24, 2014, by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for: unpaid rent; and to recover the cost of the filing fee from the Tenant for this application.

The Landlord affirmed that the Tenant was served copies of the application for dispute resolution and notice of hearing documents by registered mail on January 29, 2014. Canada Post tracking receipts were provided in the Landlord's evidence. Based on the submissions of Landlord I find that the Tenant is deemed served Notice of this proceeding on February 3, 2014, in accordance with the Act, and I continued in the Tenant's absence.

Issue(s) to be Decided

1. Should the Landlord be granted an Order of Possession, pursuant to section 48 of the *Manufactured Home Park Tenancy Act*?
2. Should the Landlord be awarded a Monetary Order, pursuant to section 60 of the *Manufactured Home Park Tenancy Act*?

Background and Evidence

The Landlord submitted evidence that the parties executed a written tenancy agreement for a month to month tenancy that began on September 5, 2007. Rent began at \$270.00 per month, was increased to \$349.50, and as of January 1, 2014 another rental increase was imposed raising the rent to \$357.00. Rent is payable on the first of each month.

The Landlord testified that the Tenant has not resided at the manufactured home park for over a year but has continued to pay the rent up until December 2013. The Landlord

has made several attempts to contact the Tenant by telephone and e-mail but to no avail. She suspects the Tenant has simply walked away from her manufactured home and this situation.

The Landlord submitted evidence which indicates that when the Tenant failed to pay the December 1, 2013 rent a 10 Day Notice was sent to her by registered mail. A second 10 Day Notice was sent registered mail to the Tenant on January 7, 2014.

The Landlord is seeking to regain possession of the manufactured home site as soon as possible and requests a Monetary Order for unpaid rent for December 2013 and January 2014.

Upon review of the Landlord's evidence there was no copy of the notice of rent increase for January 2014 included. Therefore, I requested the Landlord submit additional evidence, consisting of a copy of the Notice of Rent Increase that had been served upon the Tenant relating to the January 2014 increase.

Analysis

On March 17, 2014, additional evidence was received on file consisting of the Notice of Rent increased that was issued to the Tenant in September 2013, increasing the rent to \$357.00 effective January 1, 2014. I accept the undisputed evidence that the Notice was issued and served upon the Tenant in accordance with the Act.

When a tenant receives a 10 Day Notice to end tenancy for unpaid rent they have (5) days to either pay the rent in full or to make application to dispute the Notice or the tenancy ends.

In this case the Tenant is deemed to have received the first 10 Day Notice on December 24, 2013, five days after it was served by registered mail, and the effective date of the Notice is **January 3, 2014**. The Tenant did not pay the rent and did not dispute the Notice, therefore, the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit to which the notice relates, pursuant to section 39 of the *Act*. Accordingly, I approve the Landlord's request for an Order of Possession.

The Landlord claimed unpaid rent of \$706.50 which includes \$349.50 that was due December 1, 2013 plus \$357.00 that was due January 1, 2014. The Tenant failed to pay rent in accordance with the tenancy agreement which is a breach of section 20 of the *Act*. Accordingly, I award the Landlord a Monetary Order for unpaid rent of **\$706.50**.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee.

Conclusion

I HEREBY FIND the Landlord is entitled to an Order of Possession effective **Two (2) Days upon service**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order in the amount of **\$756.50** (\$706.50 + \$50.00). This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia 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: March 19, 2014

Residential Tenancy Branch

