



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR

MNR

FF

Introduction

I have been delegated the authority under Section 9.1 of the *Manufactured Home Park Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the Landlord’s evidence prior to the Hearing. The Landlord’s agent gave affirmed evidence and this Hearing proceeded on its merits.

Issue(s) to be Decided

This is the Landlord’s application under Sections 48, 60 and 65(1) of the Act for an Order of Possession, a monetary order for unpaid rent, and to recover the cost of the filing fee from the Tenant.

Background and evidence

The Landlord’s agent testified that she mailed the Tenant the Ten Day Notice to End Tenancy for Unpaid Rent on February 3, 2009, by registered mail. The Landlord provided a copy of the Canada Post tracking search, which indicates the Tenant picked up the registered mail package on February 5, 2009.

The Landlord’s agent testified that she mailed the Tenant the Application for Dispute Resolution and hearing package on February 17, 2009, by registered mail, to the Tenant at the Tenant’s residential address. The Landlord’s agent provided copies of

the registered mail receipt and Canada Post tracking search. The Landlord's agent testified that she telephoned the Tenant to advise her of the registered mail package, but that the Tenant did not attend at the post office to retrieve it and the package was returned to the Landlord.

The Landlord's agent testified that rent for the site to and including January 1, 2009, was \$254.00 per month, due on the first day of the month. The Landlord's agent testified that she mailed the Tenant a notice of rent increase on October 9, 2008, increasing the rent to \$275.00 effective February 1, 2009.

The Landlord's agent testified that the Tenant is in arrears of rent for a total of \$1,658.00, as follows:

| | |
|--------------------|-----------------|
| • May, 2008: | \$9.00 |
| • July, 2008: | \$104..00 |
| • August, 2008: | \$254.00 |
| • September, 2008: | \$254.00 |
| • October, 2008: | \$254.00 |
| • November, 2008: | \$254.00 |
| • December, 2008: | \$254.00 |
| • January, 2009: | \$254.00 |
| • February, 2009 | <u>\$275.00</u> |
| TOTAL | \$1,658.00 |
| | ===== |

Analysis

The Tenant received the Notice to End Tenancy on February 5, 2009. The Tenant did not pay the arrears of rent, or dispute the Notice to End Tenancy, within 5 days of receiving the notice and is therefore conclusively presumed to have accepted that the tenancy ended on February 15, 2009. The Landlord is entitled to an order of possession and I make that order.

Pursuant to Section 90 of the Act, the Tenant was deemed to have received the Landlord's application and hearing package 5 days after the Landlord mailed the package to the Tenant. Therefore the Tenant is deemed to have received the hearing package on February 22, 2009. This Hearing was set for 1:30 p.m., April 6, 2009, via telephone conference. At 1:40 p.m., the Tenant had still not signed in to the conference and this Hearing proceeded in the Tenant's absence.

I accept the Landlord's agent's testimony in its entirety.

The Landlord has been successful in its application and is entitled to recover the cost of the filing fee in the amount of \$50.00 from the Tenant.

Based on the testimony of on the Landlord's agent, the Landlord is entitled to a monetary order in the amount of \$1,708.00 and I make that order.

Conclusion

I grant the Landlord a monetary order under section 60 of the Act for \$1,708.00. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

Under Section 48 of the Act, I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order.

This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

April 6, 2009
