



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

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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 evidence provided by the Landlord prior to the Hearing. The Landlord's agent gave affirmed evidence and this matter proceeded on its merits.

Issue(s) to be Decided

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the filing fee for the cost of the application from the Tenant.

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order?
- (3) Is the Landlord entitled to recover the filing fee from the Tenant?

Background and Evidence

Landlord's agent's testimony

The Landlord testified that she personally served the Tenant with the Notice to End Tenancy for Unpaid Rent or Utilities at the Tenant's residence on April 27, 2009 at 6:30 p.m.

The Landlord's agent testified that she mailed the Tenant the Application for Dispute Resolution and hearing package on May 22, 2009, by registered mail, to the Tenant's residential address. The Landlord provided a copy of the registered mail receipt and tracking number.

The Landlord's agent testified that:

- The monthly rent is \$290.00, due on the first day of the month.
- The Tenant is in arrears for the months of April and May, 2009, for the total amount of \$580.00. The Landlord also applied for late fees @\$25.00 per month for a total of \$50.00.
- The Tenant remains in the rental site. The Landlord applied for loss of rent for the month of June, 2009, in the amount of \$290.00.
- The Landlord's agent asked for an Order of Possession and to recover the filing fee for the cost of the application from the Tenant.

Analysis

I accept the Landlord's testimony that the Tenant was duly served with the Notice to End Tenancy. The Tenant did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Pursuant to Section 39(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, service was affected on April 27, 2009, and the effective end to the tenancy was therefore May 7, 2009.

Therefore, the Landlord is entitled to an Order of Possession and I make that order.

I accept the Landlord's testimony that she mailed the Tenant the Notice of Hearing Package and Application for Dispute Resolution, by registered mail to the Tenant's residence, on May 22, 2009. Section 83 of the Act deems documents served in this manner to be received on the 5th day after mailing the document. In spite of being

served with the document, the Tenant did not appear at today's Hearing and the Hearing proceeded in his absence.

Based on the testimony of the Landlord's agent and the absence of any evidence to the contrary from the Tenant, the Landlord has established the Landlord's monetary claim for arrears in the amount of \$580.00. The Tenancy Agreement does not provide for late fees, and therefore the Landlord's application for a monetary order for \$50.00 for late fees for the months of April and May, 2009 is dismissed.

The Tenant remains in the rental site, and therefore I find that the Landlord is entitled to recover loss of rent for the month of June in the amount of \$290.00 from the Tenant.

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

Conclusion

Under Section 48 of the Act, I grant the Landlord an Order of Possession **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.

Pursuant to Section 60 of the Act, I hereby grant the Landlord a Monetary Order in the amount of \$920.00 against the Tenant. 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.

June 12, 2009
