

DECISION AND REASONS

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Manufactured Home Park Tenancy Act*, for an order of possession and a monetary order for unpaid pad rent and the filing fee.

Service of the hearing document, by the landlord to the tenant, was done in accordance with section 81 of the *Manufactured Home Park Tenancy Act*, sent via registered mail. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for unpaid rent and the filing fee?

Background and Evidence

The landlord testified that the tenancy began sometime in 2002. The monthly pad rent is \$250.00. The landlord stated that the tenant did not pay rent for September. On September 18, 2009, the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. The tenant continues to occupy the rental pad and as of the date of the hearing, the tenant owes the landlord rent for three months (\$750.00).

The landlord filed a signed tenancy agreement which contains a clause regarding late fees. As per this clause the landlord is claiming \$30.00 per month for late fees.

The landlord is applying for an order of possession effective November 30, 2009 and a monetary order for rent for three months (\$750.00), late fees for three months (\$90.00) and the filing fee (\$50.00).

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. Pursuant to section 39(4) of the *Manufactured Home*

Park Tenancy Act, a tenant may pay the overdue rent or dispute the notice by making an application for dispute resolution within five days of receiving the notice.

Section 39(5) states that if a tenant does not pay rent or make an application for dispute resolution within five days after receiving the notice to end tenancy, 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 by that date.

In this case, the tenant did not pay rent nor did he dispute the notice to end tenancy within five days of receiving the notice. Therefore pursuant to section 48(2), I am issuing a formal order of possession effective on or before 1:00 p.m. on November 30, 2009. This Order may be filed in the Supreme Court for enforcement.

I find that the landlord has established a claim of \$750.00 for unpaid rent. Pursuant to section 5(1) of the *Manufactured Home Park Tenancy Regulation*, a landlord may charge an administration fee of not more than \$25.00, for late payment of rent.

Accordingly, I award the landlord \$75.00 for late payment of rent for three months.

Since the landlord has proven his case, I find that he is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 60 of the *Manufactured Home Park Tenancy Act*, for the amount of \$875.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession effective on or before **1:00 p.m. on November 30, 2009**. I also grant the landlord a monetary order for **\$875.00**.

Dated November 20, 2009.

Dispute Resolution Officer