



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession for unpaid rent, a Monetary Order to recover unpaid rent and a Monetary Order to recover the filing fee.

Service of the hearing documents was done in accordance with section 82 of the *Act*, and were sent to the tenant by registered mail on December 04, 2009.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Whether the landlord is entitled to an Order of Possession?
- Whether the landlord is entitled to a Monetary Order to recover the unpaid rent and filing fee?



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Background and Evidence

This tenancy started in June 2007 on the manufactured home park site. This is a month to month tenancy and the pad rent is \$310.00 per month due on the 1st of each month.

The landlord testifies that the tenant did not pay all his rent for September 2009 which left a balance of rent owed at that time of \$300.00. The tenant owes \$10.00 for January, 2009, \$310.00 for February, 2009; he paid \$400.00 in March, 2009. He owes \$310.00 for April, 2009; he paid \$200.00 in May, 2009. He owes \$310.00 for June, 2009; he paid \$400.00 in October, 2009. He owes \$310.00 for December, 2009. This has left the amount of outstanding rent of \$1,480.00. A 10 Day Notice to End Tenancy for Unpaid Rent was issued on October, 03, 2009. The tenant did not respond to this Notice by paying the outstanding rent within five days, applying for Dispute Resolution or moving from the trailer park.

The landlord is also claiming late fee charges of 10% of the outstanding balance for each month the rent is late to a total amount of \$247.00. There is a clause in the tenancy agreement which informs the tenant of this additional charge.

The tenant does not dispute he owes rent and attempted to reach an agreement with the landlord to pay \$400.00 each month until the rent arrears are caught up.

The landlord requests an Order of Possession for January 31, 2010.

Analysis

The *Manufactured Home Park Tenancy Act* section 39 states that a landlord may end a tenancy if rent is unpaid on any day after the date it is due, by giving Notice to end the

tenancy effective on a date that is not earlier than 10 days after the tenant is served this notice.

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 39 of the *Manufactured Home Park Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 39(5)(a)(b)) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an Order of Possession.

I further find that the tenant owes a total amount of unpaid rent to the landlord of \$1,480.00. I also find the landlord is entitled to recover late fees from the tenant to an amount of \$247.00.

As the landlord has been successful with their application they are entitled to recover the \$50.00 filing fee for this proceeding pursuant to section 65(1).

A Monetary Order will be issued to the landlord for the following amount:

Outstanding rent and late fees	\$1,727.00
Total amount due to the landlord	\$1,777.00

Conclusion



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I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,777.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective on **January 31, 2009**. This order must be served on the tenant and may be filed in the Supreme 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 *Residential Tenancy Act*.

Dated: December 18, 2009.

Dispute Resolution Officer