



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

MNR

OPR

MNSD

FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated November 15, 2009 and a monetary order for rent owed.

Although personally served with the Application for Dispute Resolution and Notice of Hearing in person on November 24, 2009, the tenant did not appear.

Issue(s) to be Decided

The landlord is seeking an Order of Possession. The landlord is also seeking a monetary order claiming unpaid rent of \$248.00 for rent still in arrears for the month of December and the \$50.00 cost of filing the application.

The issues to be determined based on the testimony and the evidence are:

Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent

Whether or not the landlord is entitled to monetary compensation for rental arrears owed and loss of rent

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated 15, 2009 with a purported effective date of November 21, 2009. The landlord testified that the tenancy began several years ago and the pad rent is \$248.00. The landlord testified that the tenant failed to pay \$248.00 rent for the month of November 2009 and a Notice was issued. The landlord testified that the tenant subsequently paid the overdue rent on December 1, 2009 and was advised by the landlord at that time that, despite the payment, the tenancy was not reinstated despite the payment, as it was made beyond the statutory deadline. The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession for January 31, 2010.

Analysis

Section 46 (1) of the Manufactured Home Park tenancy Act states that, if a landlord or tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with: (2) If the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section. Therefore, I find that the effective date for the notice must be changed. In this instance, I find that the earliest effective date to end the tenancy would be November 25, 2009.

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent in person and the tenant did not pay the outstanding rent within 5 days of the notice and did not apply to dispute the Notice. Under section 39(5) of the Manufactured Home Park Tenancy Act, the tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$298.00 comprised of \$248.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord an order under section 60 for \$298.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

December 2009

Date of Decision

Dispute Resolution Officer