

## **DECISION**

### **Dispute Codes**

For the tenant - MT, CNR, RP, AS, RR

For the landlord – OPR, MNR, FF

### **Introduction**

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlord. Both files were heard together. The tenant has requested more time to file his application and request that the landlords' 10 Day Notice to End Tenancy is cancelled. The tenant also seeks an Order for the landlord to make repairs to the unit, site or property, to allow the tenant to assign or sublet the unit and to allow the tenant to reduce his rent for repairs, services or facilities agreed upon but not provided. The landlord seeks an Order of Possession for unpaid rent and a Monetary Order to recover unpaid rent and the filing fee.

Both Parties served the other Party in person with a copy of the Application and Notice of Hearing. I find that both parties were properly served pursuant to s. 81 of the *Act* with notice of this hearing.

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**

- Is the tenant entitled to more time to file his application to cancel the 10 Day Notice to End Tenancy?
- Is the tenant entitled to cancel the Notice to End tenancy?
  
- Is the tenant entitled to an Order for the landlord to repairs the unit, site or property?
- Is the tenant entitled to an Order allowing him to assign or sublet the unit?

- Is the tenant entitled to reduce his rent for repairs, services or facilities agreed upon but not provided?
- Is the landlord entitled to an Order of Possession?
- Is the landlord entitled to a Monetary Order for unpaid rent?

### Background and Evidence

This month to month tenancy started on May 01, 2002. The tenant rents a mobile home site from the landlord at a monthly rent of \$145.00 which is due on the first of each month.

The tenant states that he received a 10 Day Notice to End Tenancy for unpaid rent on February 02, 2010. This Notice was posted to the tenants' door. The tenant filed his application to dispute this Notice on March 01, 2010. The tenant offered no exceptional circumstances as to why he filed his application outside of the five days allowed.

The tenant did not pay the rent owed within five days of receiving the 10 Day Notice. The tenant does not dispute that he owes rent to the landlord.

The landlord claims the tenant was served with this 10 Day Notice and a One month Notice to End Tenancy. The landlord claims that the 10 Day Notice was issued for unpaid rent of \$375.00 and the tenant was asked to vacate the rental site on February 12, 2010. The landlord testifies that since that date the tenant paid rent \$145.00 on March 01, 2010 and paid \$170.00 on April 01, 2010. This leaves the amount of rent arrears at \$350.00.

The landlord seeks an Order of Possession for June 30, 2010 to allow the tenant time to either remove or sell his trailer.

As the tenant filed his application after the five days allowed on the 10 Day Notice to end tenancy I decline to hear the remainder of his application.

### Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties; section 59 of the Act states that a director may extend the time limit established by this *Act* only in exceptional circumstances, other than as provided by section 52 (3) (starting proceedings). I find the tenant is unable to satisfy me that he had exceptional circumstances as to why he filed his application late. The tenant was deemed to have received the 10 Day Notice to End Tenancy on February 05, 2010 as it was posted to his door. Therefore, the tenant had until February 10, 2010 to pay the outstanding rent or make an application to dispute the notice. As the tenant failed to either pay the outstanding rent by this date or make an application to Dispute the Notice I find he is conclusively presumed to have accepted that the tenancy ended on the amended date of the Notice of February 15, 2010 pursuant to section 39 (5) of the *Act*.

Consequently I find the tenants' application to allow him more time to file his application to cancel the 10 Day Notice is dismissed. I also find the tenants' application to cancel the 10 day Notice to End Tenancy issued on February 02, 2010 is dismissed.

The landlords have asked for an Order of Possession. The landlord has agreed to allow the tenant more time to either remove or sell his trailer and has therefore extended the time for the Order of possession to take effect till June 30, 2010.

I find the landlord has established his claim for unpaid rent. Therefore, the landlord is entitled to a monetary award to the sum of \$350.00 pursuant to section 60 of the *Act*. As the landlord has been successful with his application I find he is also entitled to recover the filing fee of \$50.00 from the tenant pursuant to section 65 (1) of the *Act*.

A Monetary Order has been issued for the amount of **\$400.00**.

### Conclusion

The tenant's application is dismissed in its entirety without leave to reapply. The 10 Day Notice to End Tenancy for unpaid rent dated February 02, 2010 will remain in force and effect.

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 **\$400.00**. The order must be served on the tenant 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 **June 30, 2010**.  
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 *Manufactured Home Park Tenancy Act*.

Dated: April 15, 2010.

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Dispute Resolution Officer