

DECISION

Dispute Codes

OPR, MNR, FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 54 of the *Manufactured Home Park Act* (the “Act”), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession, a monetary order and for filing fee costs.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 5, 2010, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the service address indicated on the Application. The landlord provided a copy of Canada Post Receipt and tracking number as evidence. Section 83 of the *Manufactured Home Park Tenancy Act* determines that a document is deemed to have been served on the 5th day after mailing.

Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant
- A copy of a residential tenancy agreement for a home pad only which was signed by the parties on September 1, 2008, indicating \$650.00 per month rent due on the first day of the month;
- A copy of a Notice of Rent Increase issued on May 15, 2009, increasing the rent to \$679.40 effective September 1, 2009; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on April 22, 2010, with an effective vacancy date of May 2, 2010 for \$704.40 in unpaid rent due April 1, 2010.

Documentary evidence filed by the landlord indicates that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent by the landlord on April 22, 2010, at 4:30 p.m. by posting to the door, with a witness present. The landlord has supplied a signed Proof of Service document which dictates that a witness was present at the time of service. 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 apply to dispute the Notice to End Tenancy within five days.

The landlord has requested a monetary order for \$679.40 in pad rent and a \$50.00 filing fee.

Analysis

I accept that the tenant has been served with Notice to end tenancy effective on April 25, 2010.

Section 46 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to May 5, 2010.

Based on the foregoing, I find that the tenant is conclusively presumed under section 39(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice; May 5, 2010.

I find that the tenant has failed to pay the current pad rental of \$679.40.

I note that the Notice appears to have included what may be fees, as unpaid rent. A 10 Day Notice may include unpaid rent and utilities and any fees claimed should be indicated as separate from rent and utilities.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation under section 60 of the Act in the amount of **\$729.40** comprised of \$679.40 April, 2010, rent owed and the \$50.00

fee paid by the Landlord for this application. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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: May 12, 2010.

Dispute Resolution Officer