



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

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. The landlord stated that when the package was returned to her as unclaimed by the tenant, the landlord visited the tenant and handed the package to her in person. 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, utilities and the filing fee?

Background and Evidence

The landlord testified that the tenancy began on November 01, 2008. At the time of the hearing the monthly pad rent was \$341.25. The landlord stated that in November 2009, the tenant reported that she was receiving higher than usual power supply bills. She believed that the hydro meter was faulty. The tenant made small payments on her hydro bill and got further behind as time went on. In February 2010, the landlord replaced the meter. There was no significant change in the consumption that was billed.

In addition to owing money for the hydro bills, the tenant failed to pay rent for June. On June 27, 2010, the landlord served the tenant with a ten day notice to end tenancy for unpaid rent and utilities. The tenant paid \$344.50 towards her debt on July 14, 2010. The landlord accepted the money but did not reinstate the tenancy. The landlord stated that as of the date of the hearing the tenant owed \$1,455.36 which included unpaid rent and utilities. The landlord filed a financial statement to support her claim.

The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order for \$1,455.36.

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 she 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 two days after service on the tenant. This Order may be filed in the Supreme Court for enforcement.

I find that the landlord has established a claim of \$1,455.36 for unpaid rent and utilities. Since the landlord has proven her case, I find that she 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 \$1,505.36. 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 **two days** after service on the tenant. I also grant the landlord a monetary order for **\$1,505.36**.

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: August 10, 2010.

Dispute Resolution Officer