



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Landlord and the male Respondent were both represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the Respondent for the cost of the Application for Dispute Resolution, pursuant to sections 48, 60, and 72 of the *Manufactured Home Park Tenancy Act (Act)*.

Preliminary Matters

The Agent for the Landlord and the male Respondent agree that the female Respondent moved into this rental site in 1974; that the female Respondent is now deceased; that the male Respondent resided in the rental unit with the female Respondent for an extended period prior to her death; that the male Respondent continues to reside in the rental unit; and that the male Respondent has never entered into a tenancy agreement with the Landlord.

As the male Respondent and the Landlord have never entered into a tenancy agreement, I find that the male Respondent is merely occupying the rental unit and that he has no rights or obligations in relation to this tenancy. As the Respondent has no rights or obligations in this tenancy, I find that he should not have been named as a Respondent and I dismiss all of the Landlord's claims against the male Respondent.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent, via registered mail, to the estate of the female Respondent at the rental unit, on July 21, 2010. The Landlord submitted documentation from Canada Post to corroborate this claim. I find that on July 26, 2010 the estate of the female Respondent was sufficiently served with notice of this hearing, pursuant to section 64(2)(c) of the *Act*.

Background and Evidence

The Agent for the Landlord and the male Respondent agree that the rent for this rental site was increased from \$248.15 to \$258.00 on February 01, 2010 and that rent is due on the first day of each month. The parties agree that rent of \$248.15 was not paid when it was due on January 01, 2010; that rent of \$258.00 was not paid when it was due on February 01, 2010; that rent of \$258.00 was not paid when it was due on March 01, 2010; that rent of \$258.00 was not paid when it was due on April 01, 2010; that rent of \$258.00 was not paid when it was due on May 01, 2010; that rent of \$258.00 was not paid when it was due on June 01, 2010; that rent of \$258.00 was not paid when it was due on July 01, 2010; that rent of \$258.00 was not paid when it was due on August 01, 2010; and that rent of \$258.00 was not paid when it was due on September 01, 2010.

The Agent for the Landlord and the male Respondent agree that the Agent personally served the male Respondent with three Ten Day Notices to End Tenancy for Unpaid Rent, on July 12, 2010.

One of the Notices to End Tenancy that was served on July 12, 2010, had an effective date of July 22, 2010 and declared that the Tenant had not paid rent of \$258.00 that was due on May 01, 2010. One of the Notices to End Tenancy that was served on July 12, 2010, had an effective date of July 22, 2010 and declared that the Tenant had not paid rent of \$258.00 that was due on June 01, 2010. One of the Notices to End Tenancy that was served on July 12, 2010, had an effective date of July 22, 2010 and declared that the Tenant had not paid rent of \$258.00 that was due on July 01, 2010.

Analysis

I find that the female Respondent entered into a tenancy agreement with the Landlord that required her to pay monthly rent of \$248.15 on January 01, 2010 and to pay monthly rent of \$258.00 on the first day of every subsequent month during which the Respondent retains possession of the rental site. Section 20(1) of the *Act* requires tenants to pay rent to their landlord.

The undisputed evidence is that no rent has been paid for this site for any month in 2010 and that the female Respondent still has a manufactured home on the rental site. As the female Respondent still has a manufactured home on the rental site I find that her estate is required to pay rent pursuant to section 20(1) of the *Act*, until such time as

her home is removed from the rental site. I therefore find that her estate must pay rent that was due for the first nine months of 2010, which was \$2,312.15.

If rent is not paid when it is due, section 39(1) of the *Act* entitles landlords to end the tenancy within 10 days if appropriate notice is given to the tenant. The undisputed evidence is that on July 12, 2010 the male Respondent, who is an adult who lives at the rental site, was personally served with three Notices to End Tenancy that required the Tenant to vacate the rental unit on July 22, 2010, pursuant to section 39 of the *Act*. I find that these Notices were served on the estate of the female Respondent in accordance with 82(2)(c) of the *Act*.

Section 39 of the *Act* stipulates that a Tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that any of the Notices to End Tenancy were disputed or that the rent has been paid. I therefore find that the Respondent accepted that the tenancy has ended pursuant to section 39(5) of the *Act*. On this basis I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the female Respondent for the cost of this Application for Dispute Resolution.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective on October 31, 2010, as requested by the Agent for the Landlord at the hearing. This Order may be served on the estate of the Respondent, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$2,362.50, which is comprised of \$2,312.15 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$2,362.50. This Order may be served on the estate of the male Respondent, filed with the Province of British Columbia Small Claims 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 *Act*.

Dated: September 10, 2010.

Dispute Resolution Officer