



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent; for a monetary order for unpaid rent; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

The landlord attended the hearing however, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on September 3, 2010, the tenant did not attend the conference call hearing.

All evidence provided has been reviewed and is considered in this Decision.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

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

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

This month-to-month tenancy began on May 9, 2009 and refers to a pad in a manufactured home park. The landlord testified that the tenant owns the manufactured

home and rents the pad. Rent in the amount of \$460.00 is payable in advance on the 1st day of each month.

The landlord testified that on August 13, 2010 she posted a Notice to End Tenancy – Manufactured Home Site to the door of the tenant's residence which stated that the tenant was required to vacate and give up possession of the manufactured home site by August 23, 2010 for failure to pay rent in the amount of \$460.00 which was due on August 1, 2010 plus a \$25.00 late charge. A copy of that notice was provided in advance of the hearing. The landlord further testified that the tenancy agreement provides for a \$25.00 late fee for every month that the rent is late, but did not provide a copy of the tenancy agreement in advance of the hearing.

The landlord further testified that the tenant spoke to her in late August stating that he would pay but has not paid the outstanding amount. The tenant has vacated the manufactured home; it is vacant, however now owing is 3 months of rent, for August, September and October, 2010 as well as \$75.00 in late fees for a total of \$1,455.00.

Analysis

I find that the tenant has been served with the Landlord's Application for Dispute Resolution and notice of hearing documents, which are deemed to have been received by the tenant on September 8, 2010.

I have reviewed the Notice to End Tenancy – Manufactured Home Site document which was served on the tenant, and I find that the tenant was deemed to be served 3 days after posting it to the door of his residence, or August 16, 2010. Although the tenant has not disputed the notice or paid the outstanding rental arrears in accordance with the Act, I cannot uphold the notice. The notice issued to the tenant does not comply with Section 45 of the *Manufactured Home Park Tenancy Act*, which states that the notice must be in the approved form. I find that the approved form differs entirely from the one issued to the tenant.

I find also that the landlord has established \$1,455.00 in unpaid rent and late fees, for which the tenant is obligated to pay. The landlord is also entitled to recovery of the \$50.00 filing fee.

The landlord may be entitled to an Order of Possession if the landlord complies with Section 45 of the *Manufactured Home Park Tenancy Act* by serving the tenant with the approved form.

Conclusion

For the reasons set out above, the landlord's application for an Order of Possession is hereby dismissed.

I grant the landlord an order under section 60 for the balance due of \$1,505.00. This order may be filed in the 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 *Residential Tenancy Act*.

Dated: October 18, 2010.

Dispute Resolution Officer