



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled 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 and utilities, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the Agent for the Landlord stated that she does not know if a security deposit was paid and that she is, therefore, withdrawing the application to retain all or part of a security deposit.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the rental unit on September 18, 2010 and that the documents were returned to the sender. The Landlord submitted Canada Post documents that corroborate this statement. These documents are deemed to have been served in accordance with section 82 of the *Manufactured Home Park Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and utilities; to a monetary Order for unpaid rent and utilities; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 48, 60, and 65 of the *Act*.

Background and Evidence

The Agent for the Landlord stated that she is not certain when this tenancy began, as the Tenant was given access to a site in this manufactured home park in exchange for work done for the Agent for the Landlord's father. The Agent for the Landlord stated that the Tenant entered into a verbal agreement to pay rent, in the amount of \$285.00, beginning on June 01, 2008. The Agent for the Landlord stated that rent is due on the first day of each month.

The Agent for the Landlord stated that the Tenant was served with a Notice of Rent Increase, by registered mail, on September 24, 2009, although the mail was not claimed by the this Tenant. This Notice of Rent Increase advised the Tenant that rent was increasing to \$299.20, which included a \$3.65 increase which represents a proportional amount of the increase in utility fees for the manufactured home park.

The Agent for the Landlord stated that the Tenant paid \$285.00 in rent for June of 2010 but has not paid rent since that date.

The Agent for the Landlord stated that she personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent, on September 09, 2010. A copy of the Notice to End Tenancy was submitted in evidence. The Notice to End Tenancy is dated September 01, 2010. It does not state the date when the Tenant must vacate the rental unit, which is commonly referred to as the effective date of the Notice.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord and that the Tenant has been required to pay monthly rent of \$299.20 since June 01, 2010. Section 20(1) of the *Act* requires tenants to pay rent to their landlord.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant only paid \$285.00 in rent for June of 2010 and that \$14.20 is still owed for that month. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant has not paid any rent for July, August, September, or October of 2010 and that \$1,196.80 is owed for those months. As the Tenant is required to pay rent pursuant to section 20(1) of the *Act*, I find that the Tenant must pay \$1,211.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, section 39(1) of the *Act* entitles landlords to end the tenancy by giving notice to end the tenancy on a date that is not earlier than ten days after the date the tenant receives the notice. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Agent for the Landlord personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent on September 09, 2010, pursuant to section 39(1) of the *Act*. After the hearing had ended I noted that the Notice to End Tenancy that was submitted in evidence does not declare when the Tenant must vacate the rental unit, which is commonly referred to as the effective date of the Notice.

Section 39(2) of the *Act* stipulates that a notice to end tenancy under this section must comply with section 45 of the *Act*. Section 45(c) of the *Act* stipulates that to be effective a notice to end tenancy must state the effective date of the notice.

In the circumstances before me I find that the Notice to End Tenancy did not declare the effective date of the Notice to End Tenancy. I therefore find that the Notice is not effective, as the Landlord did not comply with section 45(c) of the *Act*.

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

Conclusion

As the Notice to End Tenancy that was served on the Tenant is not effective, due to the fact it does not declare when the Tenant must vacate the rental unit, I am unable to grant the Landlord's request for an Order of Possession. The Landlord retains the right to serve the Tenant with another Notice to End Tenancy if the Tenant does not pay rent that is due.

I find that the Landlord has established a monetary claim, in the amount of \$1,261.00, which is comprised of \$1,211.00 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 \$1,261.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, 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 *Residential Tenancy Act*.

Dated: October 22, 2010.

Dispute Resolution Officer