

DECISION

Dispute Codes:

OPR; OPB; MNR; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearings.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent?

Preliminary Matters

At the outset of the Hearing on January 11, 2011, it was determined that this application was made under the *Manufactured Home Park Tenancy Act* (the "Act") and not the *Residential Tenancy Act*, as was noted on the Application. The spelling of the Tenant's last name was also incorrect on the Application. The Landlord's Application for Dispute Resolution was amended pursuant to the provisions of Section 57(3)(c) of the Act, to reflect the correct spelling of the Tenant's last name and the applicable Act.

At the Hearing on January 11, 2011, while I was confirming service of the Notice of Hearing Documents on the Tenant, it became apparent that I could not understand the Landlord's submissions due to a language barrier. The Tenant was present at the Hearing and consented to adjourn the matter for two days so that the Landlord could arrange for an agent to be present to interpret his submissions.

Background and Evidence

The Landlord testified that he mailed the Notice of Hearing documents, by registered mail, to the Tenant at the rental site on December 17, 2010. The Landlord provided a copy of the registered mail receipt in evidence. The Landlord testified that copies of his documentary evidence were included in the Notice of Hearing package.

The Tenant testified that he did not receive the Notice of Hearing package until January 10, 2010, and that he did not receive any of the Landlord's documentary evidence in the package. The Tenant stated that he was concerned because he was not receiving his mail, so he asked the letter carrier if he had any mail for him, and the letter carrier provided him with a final notice for pick up of the registered mail package. The Tenant

stated that if he had not made enquiries, he would not have known about the Hearing date or the Landlord's Application. The Tenant testified that he has never been served with a Notice to End Tenancy.

The Landlord's agent explained that most of the sites in the manufactured home park receive their mail at their site. However, the Tenant lives in a travel trailer and his mail is delivered to the Landlord, who then delivers the mail to the Tenant. She stated that when the letter carrier delivered the Landlord's registered mail package to the Landlord, the Landlord asked the letter carrier to hand deliver it to the Tenant. The Tenant was not home, so a notice was left at the Tenant's site advising where he could pick up the package.

The Landlord testified that he served the Notice to End Tenancy on the Tenant by posting the Notice to the Tenant's door on December 5, 2010. The Landlord did not have a witness present when he posted the Notice.

Analysis

Based on the testimony of both parties, I find that the Landlord has not established service of the Notice of Hearing documents or the Notice to End Tenancy upon the Tenant. Because of the system of mail delivery in the manufactured home park, in mailing the Notice of Hearing documents to the Tenant, the Landlord effectively mailed the documents to himself. The Tenant denied receiving the Notice to End Tenancy and the Landlord had no witness to support his submission that the Notice had been posted to the Tenant's door on December 5, 2010.

Therefore, the Landlord's application is dismissed without leave to reapply. The Landlord is at liberty to issue another Notice to End Tenancy.

Conclusion

The Landlord's application is dismissed.

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: January 14, 2011.

Residential Tenancy Branch