



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, FF, ET

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords to obtain an Order of Possession for unpaid rent, a Monetary Order for unpaid rent and to recover the cost of the filing fee. At the outset of the hearing the landlords withdrew their application for an Early End to Tenancy.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 82 of the *Act*; they were sent to the tenant by registered mail on February 21, 2011. The landlord attending the hearing gave affirmed testimony that he service took place as stated and he provided the tracking information. The tenant is deemed to have received the hearing documents the fifth day after they were mailed pursuant to s.83 of the *Act*

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a monetary Order to recover unpaid rent?

Background and Evidence

The landlords' undisputed testimony states that this is a month to month tenancy which started on or about November 07, 2007. Rent for this site is \$357.18 per month and is due on the first of each month.

The landlord testifies that the tenant failed to pay all her rent for November, 2010 and owes a balance of \$32.17. The tenant failed to pay any rent for December, 2010 and for January and February, 2011. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent on February 05, 2011. This was posted to the tenants' door and was deemed to have been served three days after posting. This Notice stated that the tenant owed an amount of rent of \$1,103.71 up to February 01, 2011. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on February 20, 2011. The tenant did not pay the outstanding rent or dispute the Notice within five days.

The landlord has applied for an Order of Possession to take effect by March 31, 2011 to give the tenant reasonable time to remove her trailer from the park. The landlord also seeks a Monetary Order to recover the unpaid rent and his \$50.00 filing fee for this proceeding.

The landlord has provided the following documentary evidence: Copies of the 10 day Notice, the rent ledger, tenancy agreement, application for tenancy, letters from the landlord to the tenant.

Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and affirmed testimony before me. The terms of the tenancy agreement as stated by the landlord shows that rent is due and payable by the 1st day of each month. The landlords rent ledger shows the tenant now owes a balance of rent for November, 2010 and has not paid rent for December, 2010 and January or February, 2011. Consequently, I find that the landlord is entitled to recover rent arrears for these

months of **\$1,103.71** and a Monetary Order for this amount has been issued to the landlord pursuant to s.60 of the *Act*.

As the landlord has been successful in this matter, they are also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 65(1) of the *Act*.

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 81 of the *Manufactured Home Park Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 39(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession pursuant to s. 48 of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,153.71**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlords effective **on March 31, 2011**. This order must be served on the Respondent and may be filed in the Supreme 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: March 08, 2011.

Residential Tenancy Branch