



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, and to recover the cost of the filing fee from the Tenants for this application.

Service of the hearing documents, by the Landlord to each Tenant, was completed in accordance with the Act, served via registered mail on May 16, 2011. Canada Post tracking receipts were provided in the Landlord's evidence. Each Tenant is deemed to have been served the hearing documents and the Landlord's evidence on May 21, 2011, five days after they were mailed in accordance with section 83 of the *Manufactured Home Park Tenancy Act*.

The Landlord appeared at the teleconference hearing, gave affirmed testimony, was provided the opportunity to present their evidence orally, in writing, and in documentary form. No one attended the teleconference hearing despite each Tenant being served notice of today's hearing in accordance the Act.

Issues(s) to be Decided

1. Have the Tenants breached the *Manufactured Home Park Tenancy Act*, regulation or tenancy agreement?
2. If so, has the Landlord met the burden of proof to obtain an Order of Possession and a Monetary Order as a result of that breach?

Background and Evidence

The Landlord testified that the parties entered into a month to month tenancy agreement which began on January 8, 2008. The current monthly rent is due on the first of each month in the amount of \$434.00.

The Landlord advised that when the Tenants failed to pay the April 1, 2011 rent, a 10 Day Notice was posted to their door on April 6, 2011. When they noticed the Notice had not been removed from the door by the Tenants, the Landlord removed the Notice on April 25, 2011. A new 10 Day Notice to End Tenancy for unpaid rent was issued on April 27, 2011 and was sent to the Tenants via registered mail.

As of today's date the Tenants have not paid rent for April, May, or June 2011, for the total accumulated balance of unpaid rent of \$1,302.00. They have noticed that there is a vehicle periodically parked at the rental property and that lights are sporadically on and off which is an indication that someone is attending the rental property.

The Landlord confirmed the rental property is in a manufactured home park located on the Island and the Tenants own the manufactured home. He is seeking an Order of Possession for as soon as possible and a Monetary Order for the full three months of rent.

Analysis

After reviewing the Landlord's application for dispute resolution I note that the Landlord had made a clerical error on their application when listing the city in which the rental property is located. All substantiating evidence supports the rental property is located in a different city on the Island as confirmed by the Landlord's testimony.

Based on the aforementioned I hereby amend the application to display the correct city name, as shown on the front of this decision as the dispute address, pursuant to # 23 of *Residential Tenancy Policy Guidelines*.

I have carefully considered all of the testimony and documentary evidence, which included among other things, a copy of the tenancy agreement, copies of Canada Post registered mail tracking receipts, and a copy of the 10 Day Notice dated April 27, 2011.

I find that in order to justify payment of damages or losses under section 67 of the *Act*, the Applicant Landlord would be required to prove that the other party did not comply with the *Act* and that this non-compliance resulted in costs or losses to the Applicant Landlord pursuant to section 7.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the Tenant.

Order of Possession I find that the Landlord has met the requirements for the 10 day notice to end tenancy pursuant to section 39(1) of the *Act*, that the Tenants failed to pay the rent or apply to dispute the Notice within 5 days after receiving this Notice, and that the Tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit to which the notice relates pursuant to section 39(5) of the *Act*. Therefore I approve the Landlord's request for an Order of Possession.

Claim for unpaid rent. The Landlord claims for unpaid rent of \$1,302.00 at \$434.00 per month for April 2011, May 2011, June 2011, pursuant to section 20 of the *Act* which stipulates a tenant must pay rent when it is due. I find that the Tenants have failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. After reviewing the evidence before me I find the Landlord has proven his claim for damage or loss, as listed above, in the amount of **\$1,302.00**.

Filing Fee. The Landlord has succeeded with his claim; therefore I award recovery of the **\$50.00** filing fee from the Tenants.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenants**. This order must be served on the Respondent Tenants and may be filed in the Supreme Court and enforced as an order of that Court.

A copy of the Landlord's decision will be accompanied by a Monetary Order for **\$1,352.00** (\$1,302.00 + \$50.00). The Order must be served on the Respondent Tenants and is enforceable through the Provincial Court 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 *Manufactured Home Park Tenancy Act*.

Dated: June 06, 2011.

Residential Tenancy Branch