



Dispute Resolution Services

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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 for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by two agents for the landlord. The tenant did not attend the hearing.

The landlord's agents testified they served the tenant with notice of this hearing via registered mail on November 21, 2011. The landlord submitted a copy of the tracking slip for the registered mail. Section 90 of the *Residential Tenancy Act (Act)* stipulates that a document served on a party by registered mail is deemed to be received 5 days after it is mailed.

Based on the landlord's evidence and testimony, I find the tenant has been sufficiently served for the purposes of this 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; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 39, 48, 60, and 65 of the *Manufactured Home Park Tenancy Act (Act)*.

Background and Evidence

The landlord testified the tenancy began at least 20 years ago as a month to month tenancy for the current monthly rent of \$254.00 due on the 1st of each month.

The landlord provided a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 27, 2011 with an effective vacancy date of August 14, 2011 due to \$2,490.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for several months beginning in April 2010 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by registered mail on August 4, 2011. This mail was returned and the tenant was served by posting it on the door on August 14, 2011.

The Notice states 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 rent in full or apply to dispute the Notice to End Tenancy within five days.

The landlord testified the tenant has provided some payment by cheque but that he had done so previously and the cheque was returned as insufficient funds and the landlord cannot yet confirm if these cheques will be cleared. The landlord testified the current arrears are \$2,600.00 but if the cheques clear the balance will be \$1,896.00.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on August 10, 2011 and the effective date of the notice is amended to August 20, 2011, pursuant to Section 46 of the *Act*. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 65 and I grant a monetary order in the amount of **\$2,650.00** comprised of \$2,600.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I note however that if the cheques the landlord currently has clear then \$704.00 of the total arrears will have been recovered in partial satisfaction of the above order.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 *Manufactured Home Park Tenancy Act*.

Dated: December 07, 2011.

Residential Tenancy Branch