



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 was convened by way of conference call in response to an application made by the landlord for an Order of Possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the conference call hearing, gave affirmed testimony and provided evidence in advance of the hearing to the Residential Tenancy Branch and to the tenant. However, despite being served with the Landlord Application for Dispute Resolution and notice of hearing documents by registered mail on November 16, 2011, the tenant did not attend. The landlord provided evidence of having mailed the documents by registered mail, and I accept that service has been effected in accordance with the *Manufactured Home Park Tenancy Act*. All evidence and testimony of the landlord's agent has been reviewed and is considered in this Decision.

At the outset of the hearing, the landlord's agent withdrew the application for an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The landlord's agent testified that the tenancy began prior to the landlord company purchasing the manufactured home park, which was purchased in 2006, and the tenant still resides in the park. Rent in the amount of \$368.00 per month is payable in advance on the 1st day of each month.

The tenant failed to pay rent when it was due for the months of July, August and September, 2011, and paid no rent for those months. The landlord provided a copy of a

10 Day Notice to End Tenancy for Unpaid Rent or Utilities, which states that the tenant failed to pay rent in the amount of \$1,622.00 that was due on September 1, 2011. The tenant further failed to pay any rent for the months of October or November, however, the tenant contacted an agent of the landlord company and promised payment.

The landlord's agent further testified that the monetary order requested includes late fees of \$25.00 which is contained in the park rules, however, no tenancy agreement was entered into by the parties after the landlord took ownership of the manufactured home park, and the tenant did not agree to late fees. A copy of the rules of the park was not provided for this hearing.

Analysis

The *Manufactured Home Park Tenancy Act* states that a tenant must pay rent when it is due under the tenancy agreement. I have no evidence before me to prove that late fees for late rent payments were ever agreed to by the tenant and the landlord when the tenancy commenced. Therefore, I cannot grant a monetary order for late fees.

I do, however, accept the testimony of the landlord's agent that the tenant is in arrears 5 months of rent, and I find that the landlord is entitled to a monetary order in the amount of \$1,840.00. The landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the landlord pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$1,890.00. This order is final and binding on the parties and may be enforced.

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 02, 2011.

Residential Tenancy Branch