



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, & MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 48(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a Monetary Order due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 08, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 82 of the *Manufactured Home Park Tenancy Act* determines that a document is deemed to have been served on the fifth day after it was sent.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on January 08, 2007 for a tenancy beginning January 01, 2007 for the monthly rent of \$326.00 due on the 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, January 05, 2012 with an effective vacancy date of January 19, 2012 due to \$1,668.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the months of September, October, November, December, 2011 and January, 2012 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenants unit on January 05, 2012 and therefore is deemed served three days later.

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 apply to dispute the Notice to End Tenancy within five days.

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 January 08, 2012 and the effective date of the notice remains unchanged. However, the tenancy agreement indicates rent is \$326.00 per month whereas the landlord's application indicates rent owed each month is \$375.00 from October 2011. Where rent has been legally increased since the tenancy commenced it is necessary for the landlord to provide evidence of such rent increases to substantiate rent owing is greater than that indicated in the tenancy agreement. Consequently, I can only accept the amount of outstanding rent as shown on the tenancy agreement at \$326.00 per month.

I therefore, accept that the tenant has failed to pay the rent owed of \$1,472.00 within the 5 days granted under section 39 (4) of the *Act*.

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.

Conclusion

I find that the landlord is entitled to an Order of Possession pursuant to section 48 of the *Act* effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to section 60 in the amount of **\$1,472.00** for rent owed. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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 *Manufactured Home Park Tenancy Act*.

Dated: February 14, 2012.

Residential Tenancy Branch