



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 the landlords' application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid pad rental pursuant to section 48;
- a monetary order for unpaid pad rental and utilities pursuant to section 60; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 65.

The tenant did not attend this hearing, although I waited until 1:43 p.m. in order to enable him to connect with this teleconference hearing scheduled for 1:30 p.m. The male landlord (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he handed the tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on September 5, 2012. The landlord testified that he handed the tenant a copy of the landlords' dispute resolution hearing package at approximately 5:30 p.m. on September 22, 2012. I am satisfied that the landlords served these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent? Are the landlords entitled to a monetary award for unpaid rent and utilities? Are the landlords entitled to retain all or a portion of the tenant's security deposit for hydro in partial satisfaction of the monetary award requested? Are the landlords entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord entered into written evidence a copy of a tenancy agreement for a pad rental in this manufactured home park that took effect on July 1, 2012. Monthly pad rental was set at \$375.00, payable in advance on the first of each month, plus hydro. The landlord testified that he obtained a security deposit for hydro in the amount of \$187.50 at the commencement of this tenancy which the landlords continue to hold.

The landlords' original application for a monetary award of \$497.94 included \$375.00 for unpaid rent for September 2012, \$72.94 for hydro then owing, and \$50.00 for the

recovery of the landlords' filing fee. At the hearing, the landlord asked for an increase in the amount of the monetary award sought to a total of \$979.65, reflecting the tenant's failure to pay any further rent for October 2012 or anything towards his outstanding hydro bill for this tenancy. The landlord asked for an additional \$375.00 for unpaid rent for October 2012 and an additional \$106.71 for unpaid hydro owing as of the date of this hearing. I agreed to consider the increased amounts sought by the landlords.

Analysis

The tenant failed to pay the outstanding rent and utilities identified in the 10 Day Notice in full within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to section 39(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 39(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by September 15, 2012. As that has not occurred, I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence provided by the landlords, I find that the landlords are entitled to monetary awards of unpaid rent of \$375.00 for each of September and October 2012. I also find that the landlords are entitled to a monetary award of \$179.65 for unpaid utilities.

I allow the landlords to retain the \$187.50 security deposit held for hydro purposes in partial satisfaction of the monetary award issued in this decision. As the landlords have been successful in this application, I allow them to recover the \$50.00 filing fee for this application.

Conclusion

I provide the landlords with a formal copy of an Order of Possession to take effect within 2 days of the landlords' service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlords' favour under the following terms which allows the landlords to recover unpaid rent and utilities, the filing fee for this application and to retain the tenant's security deposit held for hydro purposes:

Item	Amount
Unpaid September 2012 Rent	\$375.00
Unpaid October 2012 Rent	375.00
Unpaid Utilities	179.65
Less Security Deposit	-187.50
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$792.15

The landlords are provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 26, 2012

Residential Tenancy Branch