



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent effective November 17, 2012 and a monetary order for rent owed.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on November 14, 2012 neither co-tenant appeared.

Preliminary Matters

Manufactured Home Park Tenancy Act

The landlord had made this application under the Manufactured Home Park Tenancy Act. The rental unit, a manufactured home, is situated in a manufactured home park and this tenancy agreement includes rental of both the structure and the site from the landlord who has leased the site pad from the park. Section 4 of the Act states:

“This Act does not apply with respect to any of the following:

(a) a tenancy agreement under which a manufactured home site and a manufactured home are both rented to the same tenant”

Given the above, I find that this matter is not under the jurisdiction of the Manufactured Home Park Tenancy Act and must therefore proceed under the Residential Tenancy Act.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

Is the landlord entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent?

Is the landlord entitled to monetary compensation for rental arrears owed?

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy with effective date of November 17, 2012 and a copy of the tenancy agreement. The landlord testified that the tenancy began on August 1, 2012, at which time the tenant paid a security deposit of \$450.00. The landlord testified that the tenant failed to pay \$900.00 rent for November 2012 and a Ten Day Notice to End Tenancy for Unpaid Rent was issued. The landlord testified that the tenant did not pay \$900.00 owed for the month of December 2012, accruing a debt of \$1,800.00. The landlord testified that the tenants have not vacated the unit and the landlord has requested an Order of Possession.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent in person on November 14, 2012. The tenant has not paid the arrears and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$1,850.00 comprised of \$1,800.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit of \$450.00 in partial satisfaction of the claim leaving a balance due of \$1,400.00.

I hereby grant the Landlord an order under section 67 for \$1,400.00. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The landlord's application was successful and the landlord was granted a monetary order for rental arrears and an Order of Possession.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 20, 2012.

Residential Tenancy Branch