



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORDON APARTMENTS LIMITED
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR MNR

Introduction

This matter proceeded by way of direct request proceeding, pursuant to section 48(4) of the *Manufactured Home Park Tenancy Act*. (the “Act”), and dealt with an application for dispute resolution by the landlord for an order of possession for unpaid site rent and a monetary order for unpaid site rent.

The landlord submitted a signed proof of service of the notice of direct request proceeding which declares that on February 19, 2013, the landlord served the tenant with the notice of direct request proceeding via posting to the tenant's door. In addition, documentary evidence supports that the tenant was also served by registered mail on February 19, 2013. A copy of the registered mail receipt and tracking number were submitted in evidence.

Based on the written submissions of the landlord, I find that the tenant has been duly served with the direct request proceeding document as of February 24, 2013 which reflects the latter of the two methods of service described above, which is by registered mail. Registered mail is deemed served five days after it is mailed pursuant to section 83 of the *Act*.

Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent?
- Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the proof of service of the notice of direct proceeding for the tenant;

- A copy of a residential tenancy agreement which was signed by the tenant on July 8, 2011 indicating monthly site rent of \$495.00 due on the first day of the month which was increased through a site rent increase to \$516.00 effective August 1, 2012 and of which was supported by documentary evidence; and
- A copy of a 10 day notice to end tenancy for unpaid rent which was issued on February 6, 2013, with a stated effective site vacancy date of February 17, 2013, for \$516.00 in unpaid site rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the site rent owed and was served the 10 day notice to end tenancy for unpaid site rent by posting to the tenant's door on February 6, 2013 which was witnessed. Section 83 of the *Act* deems the tenant was served three days later on February 9, 2013 which would correct the above-mentioned effective site vacancy date to February 19, 2013.

The notice states that the tenant had five days to pay the rent in full or apply for dispute resolution or the tenancy would end 10 days from the service date. The tenant did not apply to dispute the notice to end tenancy within five days from the date of service.

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.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 39(5) 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 corrected effective date of the notice. Therefore, I find that the landlord is entitled to an order of possession for unpaid site rent and a monetary order for unpaid site rent.

Conclusion

I find that the landlord is entitled to an order of possession effective **two days after service** on the tenant and this order 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 of the *Act* in the amount of **\$516.00** comprised of site 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 final and binding on the parties, unless otherwise provided under the *Act*, and 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 25, 2013

Residential Tenancy Branch

