



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: MNR, OPR, FF

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the landlord for an Order of Possession based on the Ten-Day Notice to End Tenancy for Unpaid Rent dated January 4, 2013 and a monetary order for rental arrears owed.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on February 2, 2013, the tenant did not appear. The landlord verified service of the hearing package by registered mail by providing the Canada Post tracking number to show that the documents were properly served.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession based on the Ten-Day Notice to End Tenancy issued under section 39?
- Has the landlord has proven that the landlord is entitled to monetary compensation under section 60 for rental arrears owed?

Background and Evidence

The landlord testified that the tenancy began approximately 7 years ago and the rent is \$302.43 per month. The landlord testified that, after the tenant failed to pay rent due on January 1, 2013, a Ten Day Notice to End Tenancy for Unpaid Rent was served on the tenant by registered mail on January 4, 2013. The landlord provided a copy of the Canada Post tracking sticker to confirm the service.

The landlord submitted into evidence a copy of the Ten-Day Notice to End Tenancy dated January 4, 2013, with effective date of January 22, 2013. The landlord testified that the tenant did not pay the arrears and did not vacate the park, nor did the tenant make an application to dispute the Notice. The landlord testified that the tenant then failed to pay the \$302.43 rent owed for February 2013 and now has accrued arrears in the amount of \$604.86, which is being claimed.

Analysis

Section 39 of the Manufactured Home Park Tenancy Act (the Act) states:

- (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Based on the testimony of the landlord, I find that the tenant did not submit the rent payment when it was due and was served with a Ten-Day Notice to End Tenancy for Unpaid Rent. The tenant did not paid the outstanding rent within the 5-day deadline allowed in order to cancel the Notice and did not apply to dispute the Notice. The tenant is therefore conclusively presumed under section 39(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 \$654.86, comprised of \$604.86 rental arrears for January and February 2013, and the \$50.00 fee paid by the Landlord for this application.

Based on the above facts, I find that the Landlord is entitled, under *section 48* of the *Act*, to an Order of Possession. I hereby issue the order effective two days after service on the Tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

Based on the testimony and evidence presented during these proceedings, I hereby grant the landlord a monetary order under section 60 of the *Act* for \$654.86. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is successful in the application and is granted an Order of Possession and Monetary Order based on the 10-Day Notice to End Tenancy for Unpaid Rent.

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 27, 2013

Residential Tenancy Branch

