



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid and/or loss of rent. The tenant did not appear at the hearing. The landlord testified that the hearing package was sent to the tenant via registered mail addressed to him at the rental site address on July 24, 2013. The registered mail package was returned to the landlord in August 2013 as "unclaimed". The landlord confirmed that the tenant and another occupant continue to occupy the rental site. The landlord orally provided a registered mail tracking number as proof of service.

Section 90 of the Act provides that documents mailed to another party are deemed to be received five days after mailing so that party may not avoid service by refusing to accept or not pick up registered mail.

I accepted that the landlord sufficiently served the tenant with notice of this proceeding in a manner that complies with the Act and I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid and/or loss of rent?

Background and Evidence

The tenant signed a tenancy agreement in October 2011 indicating a monthly rent of \$300.00 payable on the 1st day of every month. On July 8, 2013 the landlord personally served a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) to the adult occupant living with the tenant at the rental site. The Notice has a stated effective date of July 18, 2013 and indicates the tenant owed \$200.00 in rent. The tenant did not pay

the outstanding rent or file an Application for Dispute Resolution to dispute the Notice. The landlord has not received any monies for the site for the month of August 2013.

The landlord explained that the tenant did pay \$1,100.00 on June 28, 2013 but that payment was allocated as follows: \$1,000.00 in outstanding rent and the remaining \$100.00 being credited to July's rent.

The landlord provided a copy of the 10 Day Notice issued July 8, 2013 and the tenancy agreement as documentary evidence.

Analysis

Under the Act a tenant is required to pay rent when due in accordance with their tenancy agreement. Where a tenant does not pay rent the landlord is at liberty to issue a 10 Day Notice to End Tenancy for Unpaid Rent.

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 39(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental site by the effective date of the Notice.

Section 81 of the Act provides that a landlord may serve a Notice to End Tenancy by leaving it with an adult occupant who apparently resides with the tenant. I accept the evidence before me that the landlord gave the July 8, 2013 10 Day Notice to the adult occupant apparently residing with the tenant and I find the tenant was served with the 10 Day Notice on that date pursuant to section 81 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice within five days of July 8, 2013 I find the tenancy ended on July 18, 2013 and the landlord is entitled to regain possession of the rental site. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Based upon the evidence before me, I find the landlord entitled to recover unpaid rent of \$200.00 for the month of July 2013. Since the tenant is still in possession of the rental site I also find the landlord entitled to recover loss of rent from the tenant for the month of August 2013 in the amount of \$300.00. I further award the landlord the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

Rent: July 2013	\$ 200.00
Loss of Rent: August 2013	300.00
Filing fee	<u>50.00</u>
Monetary Order	\$ 550.00

The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service and the landlord has been provided a Monetary order in the amount of \$550.00 to serve and enforce as necessary.

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: August 28, 2013

Residential Tenancy Branch

