DECISION

<u>Dispute Codes</u>:

OPR, MNR

<u>Introduction</u>:

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent.

The Agent for the Landlord #2 stated that she personally served copies of the Application for Dispute Resolution, Notice of Hearing, and documents the Landlord wishes to rely upon as evidence to the Tenant on August 22, 2013. The Agent for the Landlord #3 stated that he witnessed service of these documents.   In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 82 of the *Manufactured Home Park Tenancy Act (Act),* however the Tenant did not appear at the hearing.

<u>Issue(s) to be Decided</u>:

Is the Landlord entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent?

<u>Background and Evidence</u>:

The Agent for the Landlord stated that this tenancy began on January 01 2002; that the current monthly rent is $449.59; that the rent is due by the first day of each month; that the rent has not been paid for August or September of 2013; and that the site has not been vacated.

The Agent for the Landlord #2 stated that she personally served a ten Day Notice to End Tenancy to the Tenant on August 07, 2013. The Agent for the Landlord #3 stated that he witnessed service of the Notice.   The Notice, which was submitted in evidence, declares that the Tenant must vacate the site by August 17, 2013.

<u>Analysis</u>

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of $449.59 by September 01, 2013, which was not paid.   As he is required to pay rent pursuant to section 20(1) of the *Act*, I find that the Tenant must pay $449.59 in outstanding rent for September.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 39 of the *Act*. In the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy

that directed the Tenant to vacate the rental unit by August 17, 2013, pursuant to section 39 of the *Act.*

Section 39 of the *Act* stipulates that a tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice to End Tenancy if the tenant does not either pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice within five days of receiving the Notice to End Tenancy.   In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 39(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended.   On this basis I find that the Landlord is entitled to an Order of Possession.

As the Tenant did not vacate the rental unit on August 17, 2013, I find that he is obligated to pay rent, on a per diem basis, for the days he remained in possession of the rental unit. As he has already been ordered to pay rent for the period between August 17, 2013 and August 31, 2013, I find that the Landlord has been fully compensated for that period. I also find that the Tenant must pay $449.59 to the Landlord for the month of September, as the site has not yet been vacated.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of $899.18 and I grant the Landlord a monetary Order for that amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order 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 *Act*.

Dated: September 30, 2013

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Residential Tenancy Branch