



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Spiral Manufactured Home Park
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The landlord presented evidence showing that she served the tenant with a copy of the notice of hearing, application for dispute resolution and evidence by sending it via registered mail. The letter was unclaimed and returned to the landlord. I was satisfied that the landlord had served the tenant in accordance with the Act and the hearing proceeded in his absence.

Issues to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed testimony is as follows. The tenant is obligated to pay \$570.00 per month in rent in advance on the first day of each month. By April 2013, the tenant was \$1,725.00 in arrears and on April 28, 2013, the landlord personally served him with a notice to end tenancy for unpaid rent (the "Notice"). On May 6 the tenant made a partial payment of \$1,165.00, but no other monies were received. As of August 31, the arrears had grown to \$2,840.00.

The landlord seeks an order of possession based on the Notice and a monetary order for the arrears plus \$25.00 late payment fees for the months of June, July and August as well as recovery of the \$50.00 filing fee paid to bring her application.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant received the Notice on April 28, 2013. The tenant did not pay the full amount of arrears within 5 days

and did not dispute the Notice and therefore under section 39(5) of the Act, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I find that the landlord is entitled to an order of possession and I grant her that order. The order must be served on the tenant. If the tenant fails to comply with the order, it may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to the rental arrears through the end of April and occupational rent pursuant to section 50(3) for the months of May – August inclusive, totaling \$2,840.00. I dismiss the claim for \$25.00 in late payment fees for the months of June, July and August as the tenancy ended 5 days after the tenant received the Notice and therefore the tenant cannot be held liable for late payment fees under the terms of the tenancy agreement.

As the landlord has been substantially successful in her claim, I find that she is entitled to recover the \$50.00 filing fee. I grant the landlord a monetary order under section 60 for \$2,890.00 which represents the following:

Rental arrears up to April 30, 2013	\$1,725.00
Occupational rent for May	\$ 570.00
Occupational rent for June	\$ 570.00
Occupational rent for July	\$ 570.00
Occupational rent for August	\$ 570.00
Filing fee	\$ 50.00
Sub-Total:	\$4,055.00
Less May 6 payment	- \$1,165.00
Total:	\$2,890.00

This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$2,890.00.

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: September 30, 2013

Residential Tenancy Branch

