



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gemini Ventures
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 48(4) of the *Manufactured Home Park Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 10, 2013 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail. Section 83 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

Based on the written submissions of the landlord, I find that the tenants have been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

Despite indicating on her Application for Dispute Resolution that she was seeking a monetary order for \$990.00 the landlord did not indicate the reason she was seeking that amount such as for damage to the unit or property; for unpaid rent or utilities; or for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement.

As the Direct Request process does not allow for a participatory hearing where the parties may answer questions such as the one noted above, I find I cannot adjudicate the landlord's request for a monetary order at this time and I dismiss that portion of her Application seeking a monetary order.

Issue(s) to be Decided

The issue to be decided is whether the landlord is entitled to an order of possession for unpaid rent, pursuant to Sections 39 and 48 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on June 1, 2011 for a month to month tenancy beginning on June 1, 2011 for the monthly rent of \$320.00 due on the 31st of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 2, 2013 with an effective vacancy date of September 12, 2013 due to \$1,040.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of July, August, and September 2013 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent when it was served to an adult female who seemed to be living in the rental unit on September 2, 2013 at 10:30 a.m. and that this service was witnessed by a third party.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on September 2, 2013 and the effective date of the notice was September 12, 2013. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 39(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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 *Manufactured Home Park Tenancy Act*.

Dated: September 16, 2013

Residential Tenancy Branch