



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding W.V. INCOME PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes: MNR, OPR, FF

Introduction

This Dispute Resolution hearing was held to deal with an Application by the landlord for a monetary order and an Order of Possession. The landlord was in attendance.

Despite being served by registered mail, the tenant did not appear.

Preliminary Issue

The landlord testified that they were informed that the tenant was deceased in June 2013 and have not received payment of rent since June 2013, accruing a debt of \$2,776.64, including late fees. No copies of the tenant's ledger or tenancy agreement were in evidence.

The landlord testified that the hearing package was served on the estate of the tenant at the dispute address. Canada Post tracking information shows that the registered mail package was never picked up. The landlord explained that they served the package to the only address they have on record.

I find that the landlord's data is incomplete with respect to the monetary claim due to the missing ledger and I am not prepared to proceed with determining the amount of the claim and whether the person responsible for the estate was notified of the debt.

For this reason, I find it appropriate to dismiss the landlord's monetary claim and I do so with leave to reapply.

However, I do accept that the tenant, or the estate of the tenant, is in rental arrears and that an undisputed Ten Day Notice to End Tenancy for Unpaid Rent was posted on the door on August 16, 2013.

Issue(s) to be Decided

The remaining issue to be determined is whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated August 16, 2013 with effective date of September 2, 2013. The landlord testified that the tenancy began in February 2008.

The landlord testified that the tenant failed to pay all of the arrears and did not dispute the 10-Day Notice to End Tenancy for Unpaid Rent. The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession.

Analysis

Based on the testimony of the landlord, I find that the landlord served the tenant with a Notice to End Tenancy for Unpaid Rent and the tenant has not paid the outstanding rent nor did the tenant apply to dispute the Notice. Therefore the tenant is conclusively presumed under section 39(5) of the Manufactured Home Park Tenancy 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 hereby issue an Order of Possession in favour of the landlord, effective immediately after service on the tenant. This order must be served and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord the cost of the application in the amount of \$50.00 which the landlord can retain from the tenant's security deposit. The monetary portion of the landlord's application is dismissed with leave to reapply.

Conclusion

The landlord is partially successful and is granted an Order of Possession.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 28, 2013

Residential Tenancy Branch