



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession and a monetary order. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail the Tenant did not appear.

The landlord stated that she had filed an evidence package with the Residential Tenancy Branch by fax on September 22, 2013. The evidence was not on the file. I accepted the landlord's statement and asked her to re-submit the written evidence package after the completion of the hearing. The landlord did and that evidence has been considered in the preparation of this decision.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?

Background and Evidence

This month-to-month tenancy has existed for at least two year. The monthly rent of \$339.00 is due on the first day of the month.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent on by registered mail deemed delivered on September 5, 2013. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenant did neither.

According to the ledger sheet filed by the landlord as of the date of the 10 Day Notice to End Tenancy the arrears of rent were \$30.00 and there was also the August late fee of \$25.00 due. The tenant did not pay the rent when due for September or October.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore 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 effective two days after service on the Tenant.

I find that the landlord has established a total monetary claim of \$469.00 comprised of arrears of rent for June, July, August and September in the amount of \$369.00, late fees for August and September in the amount of \$50.00, and the \$50.00 fee paid by the landlord for this application and I grant the Landlord an order under section 60 in that amount.

This is the total amount claimed by the landlord on its application for dispute resolution. The landlord may file a new application for any arrears of rent or late fees that have accrued since September 30, 2013.

Conclusion

- a. An order of possession effective two days after service on the Tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$469.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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 *Manufactured Home Park Tenancy Act*.

Dated: November 12, 2013

Residential Tenancy Branch