



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.

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 commenced June 6, 1998. As of the date of the hearing the monthly rent, which is due on the first day of the month, is \$286.83. In addition, the tenancy agreement provides for a late payment fee of \$25.00 per month.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was posted to the door of the rental unit on August 6, 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.

The landlord testified that the tenant had not paid the rent for July, August and September and those arrears total \$860.49. In addition, the late fees for that period total \$75.00.

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 40(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 \$985.49 comprised of arrears of rent for July, August and September in the amount of \$860.49; late fees for the same period in the amount of \$75.00; and the \$50.00 fee paid by the landlord for

this application and pursuant to section 60 I grant the landlord a monetary order in this amount.

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 \$985.49 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 *Residential Tenancy Act*.

Dated: October 21, 2013

Residential Tenancy Branch

