



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

This matter was conducted by way of Direct Request Proceeding, pursuant to section 48(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 19, 2013 the landlords served the tenant with the Notice of Direct Request Proceeding by posting. Section 83(c) of the Manufactured Home Park Tenancy Act determines that a document is deemed to have been served on the third day after was posted.

Based on the written submissions of the landlords, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on November 08, 2012 for a tenancy beginning November 02, 2012 for the monthly rent of \$400.00. Rent is due on the 30th, 31st or 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, November 05, 2013 with an effective vacancy date of November 13, 2013 due to \$800.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenant had failed to pay the full rent owed for the months of October and November, 2013 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted to the tenants door on November 05, 2013.

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

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlords. The notice is deemed to have been received by the tenant on November 08, 2013. I accept the evidence before me that the tenant has 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 that the tenant is conclusively presumed under section 39(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

With regard to the landlord application for a Monetary Order for unpaid rent; sections 81 and 82 of the Act determine the method of service for documents. The landlord has applied for a Monetary Order which requires that the landlord serve the tenant as set out under Section 82(1) of the Act. As the landlord posted the Notice of Direct Request Proceeding to the tenant's door, this method of service is not acceptable under section 82(1) of the Act. Consequently, this section of the landlord's application is dismissed with leave to reapply.

Conclusion

I find that the landlord is entitled to an Order of Possession, pursuant to section 48 of the *Act*, effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

The landlord's application for a Monetary Order for unpaid rent is dismissed with leave to reapply.

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 25, 2013

Residential Tenancy Branch

