



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Green Mountain Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR; MNR; MNDC, FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent gave affirmed testimony at the Hearing.

Preliminary Matter

The Landlord's agent EK gave evidence that the Tenant RH passed away on or about May 25, 2013. EK submitted that RH died intestate and that his daughter, CH, is the administrator of his estate. The Landlord provided a copy of an e-mail dated June 18, 2013, from CH's lawyer indicating that his client has applied for letters of administration.

The Landlord's agent testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were sent via registered mail to the Tenant's mailing address on November 12, 2013. She provided the tracking number for the registered mail. A search of the Canada Post tracking information indicates that CH signed for the registered mail package on December 13, 2013.

Based on EK's affirmed testimony and the documentary evidence provided by the Landlord, I am satisfied that CH, as representative for the estate of RH, received the Notice of Hearing documents by registered mail. Further to the provisions of Section 64(1) of the Act, I find that the documents have been sufficiently served for the purposes of this Act on December 13, 2013. Despite being served with the Notice of Hearing documents, CH did not sign into the teleconference and the Hearing proceeded in her absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

EK gave the following testimony:

The Landlord provided a copy of the tenancy agreement. This tenancy began on May 1, 1997. At the beginning of the tenancy, monthly pad rent was \$245.00 and was due on the first day of each month. In addition, the Tenant was required to pay for utilities in the amount of \$25.00 per month. The Tenant paid a security deposit in the amount of \$122.50 on April 24, 1997. The tenancy agreement includes a provision for late fees in the amount of \$25.00.

The Landlord also provided copies of Notices of Rent Increase and the tenant ledger in evidence. Effective June, 2013, monthly rent, including utilities of \$56.75, was \$413.09. Rent increased to \$430.59 effective October 1, 2013, including the utilities of \$56.75.

Rent was unpaid for the month of June, 2013. On June 12, 2013, the Landlord's agent posted a 10 Day Notice to End Tenancy on the door of the manufactured home. A copy of the Notice was provided in evidence. The Landlord filed an Application for Dispute Resolution on September 9, 2013, by way of the Direct Request Process. The Direct Request Process is based on written documentation only under the provisions of Section 48(4) of the Act. The Landlord's application was considered on September 23, 2013, and dismissed with leave to reapply, because the Arbitrator found that the Landlord did not provide proof that CH had been appointed administrator of the Tenant's estate by the Court. The Landlord re-applied on November 20, 2013.

The Landlord's agent testified that CH and other people are occupying the manufactured home, without the Landlord's consent. She stated that no rent has been paid since May, 2013.

The Landlord seeks a monetary award, calculated as follows:

Unpaid rent and utilities for June, 2013	\$413.09
NSF fees for June's bounced cheque	\$25.00
Loss of revenue for July, 2013	\$413.09
Loss of revenue for August, 2013	\$413.09
Loss of revenue for September, 2013	\$413.09
Loss of revenue for October, 2013	\$430.59
Loss of revenue for November, 2013	\$430.59
Loss of revenue for December, 2013	\$430.59
Loss of revenue for January, 2014	\$430.59
Late fees for June to December, 2013	<u>\$175.00</u>
TOTAL AMOUNT CLAIMED	\$3,550.53

Analysis

Based on the undisputed testimony and evidence of the Landlord, I find that the Notice to End Tenancy was sufficiently served for the purposes of this Act. I find that the tenancy ended on the effective date of the Notice, June 25, 2013. I find that the

Landlord is entitled to an Order of Possession and a monetary order for unpaid rent and loss of revenue in the total amount of **\$3,374.72**.

The tenancy agreement has a provision for late fees for late rent and therefore I allow the Landlord's application for late fees for the month of June, 2013, in the amount of **\$25.00**. The Landlord's application for late fees for the months of July to December is dismissed, as this was loss of revenue, not late rent.

The tenancy agreement also provides for an administrative fee for returned cheques and therefore I allow this portion of the Landlord's application for June's returned cheque, in the amount of **\$25.00**.

The Landlord has been successful in its application and I find that it is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Unpaid rent and loss of revenue	\$3,374.72
NSF and late fees	\$50.00
Recovery of the filing fee	<u>\$50.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD	\$3,474.72

Conclusion

I hereby grant the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby grant the Landlord a Monetary Order in the amount of **\$3,474.72** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (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: January 15, 2014

Residential Tenancy Branch