



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0730751 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the *Manufactured Home Park Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 8, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail.

Section 83 of the Act determines that a document served in this manner is deemed to have been received 5 days after service.

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

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on April 11, 2012, indicating that the tenant is obligated to pay \$295.00 in rent in advance on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which the landlord served on the tenant on December 11, 2013 for \$960.00 in unpaid rent due in the month of December 2013; and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice on the tenant by posting the Notice to the door of the manufactured home.

Section 83 of the Act provides that because the Notice was served by posting, the tenant is deemed to have received the Notice 3 days later on December 14, 2013.

The landlord alleged that the tenant did not pay rent in the months of November, December or January. The Notice restates section 39(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I find that the tenant received the Notice on December 14, 2013. I accept the landlord's undisputed evidence and I find that the tenant did not pay rent for the months of November and December, totaling \$590.00. The landlord offered no reason why the Notice stated that the tenant owed \$960.00 in arrears and because the landlord offered no evidence to show why the Notice demanded payment of an additional \$370.00, I find that the Notice may have misled the tenant into believing that he could not cancel the Notice by simply paying rental arrears, but would be required to pay an additional sum. For this reason, I find that the Notice served on December 11 and deemed received by the tenant on December 14 is invalid and ineffective to end the tenancy. I therefore dismiss the claim for an order of possession. If the tenant does not pay the rental arrears, the landlord is free to serve a new Notice which accurately reflects the arrears.

I accept the evidence before me that the tenant has failed to pay \$295.00 in rent for each of the months of November, December and January. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a monetary order for \$885.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order for \$885.00. The claim for an order of possession is dismissed.

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: January 20, 2014

Residential Tenancy Branch

