



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Frank Richard Jewed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 82 of the *Manufactured Home Park Tenancy Act (Act)*; served by registered mail on December 31, 2013. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 83(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues to be decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

The landlord testifies that this month to month tenancy started approximately seven years ago. The tenant pays a pad rent of \$295.83 per month. Rent and is due on the 1st of each month.

The landlord testifies that the tenant failed to pay rent for October, November and December, 2013. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent on December 09, 2013. This was sent by registered mail on December 09, 2013 a copy of the Canada Post tracking details have been provided in evidence by the landlord. This Notice states that the tenant owes rent of \$887.49 which was due on December 01, 2013. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on December 24, 2013. The tenant did not pay the outstanding rent or dispute the Notice within five days.

The landlord requests an Order of Possession of the site. The landlord testifies that he does not necessarily want to evict the tenant but will enforce the Order of Possession if the tenant does not pay the rent arrears. The landlord has requested an Order of Possession with an effective date of March 15, 2014 to give the tenant time to either pay the rent arrears or set up a repayment plan with the landlord. The landlord also requests a Monetary Order to recover the unpaid rent of \$887.49 and filing fee of \$50.00.

Analysis

Section 20(1) of the *Act* states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently, as the tenant did not attend the hearing to dispute the landlords claim I am satisfied that the landlord has established a claim for unpaid rent and will receive a Monetary Order for **\$887.49.00** pursuant to s. 60 of the *Act*.

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 81 of the *Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Notice was deemed to have been served on the tenant five days after it was posted on December 14, 2013. The tenant did not pay the outstanding rent within five days of that date nor apply to dispute the Notice to End Tenancy within five days of that date.

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 and grant the landlord an order of possession pursuant to s. 48 of the *Act*.

As the landlord has been successful with this claim I find the landlord is also entitled to recover the **\$50.00** filing fee from the tenant pursuant to s. 65(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$937.49** comprised of unpaid rent and the filing fee. The order must be served on the Respondent and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **on March 15, 2014**. This order must be served on the Respondent and may be filed in the Supreme Court 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: February 17, 2014

Residential Tenancy Branch