



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Jolly Jack Stop N. Shop
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application 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 executor of the estate of the tenant, was done in accordance with section 82 of the *Act*; served by registered mail on January 06, 2014. Canada Post tracking numbers were provided by the landlord in verbal testimony. The executor 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 executor, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The landlord testifies that this month to month tenancy started in April, 2007. Rent for this site was \$300.00 per month due on the 1st of each month.

The landlord testifies that around the end of August, 2013 the tenant passed away. This left the tenant's trailer on the site at the mobile home park. The tenant's daughter became the executor of her father's estate and as such assumes responsibility for the trailer.

The landlord testifies that he attempted to contact the executor to determine what was happening with the trailer as it was still located on the site and no rent had been paid for the site since August, 2013. The landlord testifies that as he could not talk to the executor then the landlord served a 10 Day Notice to End Tenancy to the executor by posting the Notice to the door of the trailer on October 02, 2013. The landlord testifies that as there was still no response from the executor the landlord filed his application for dispute resolution.

The landlord testifies that he seeks to recover the unpaid rent from September, 2013 to April, 2014 to an amount of \$2,400.00. The landlord testifies that a week after sending the hearing documents to the executor, the executor's husband called the landlord and asked the landlord if he wanted to purchase the trailer as the estate had been through probate and the trailer now belonged to the executor. The landlord testifies that he offered to pay what was owed to him in rent but this offer was declined. The landlord testifies that he is still willing to negotiate an amount to purchase the trailer for and therefore is only seeking a Monetary Order at this time for the unpaid rent of \$2,400.00 and the \$50.00 filing fee. The landlord testifies that if the trailer is not removed or he cannot purchase it then he will file an application for an Order of Possession.

Analysis

The executor of the tenants estate did not attend the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the executor of the estate, I have carefully considered the landlords documentary evidence and sworn testimony before me.

I am satisfied from the undisputed testimony before me that the executor of the tenant's estate must bear the responsibility for the tenant's estate which includes the trailer. Therefore due to

the undisputed testimony before me I am satisfied that there is outstanding rent of \$2,400.00 which has accumulated since the tenant passed away and because the executor did not remove the trailer from this site. Consequently, the landlord has established a claim to recover rent arrears of **\$2,400.00** and will receive a Monetary Order pursuant to s. 60 of the *Act*. I have allowed the landlord to amend his application to include rent arrears for April as the trailer remains in place past the effective date of the 10 Day Notice.

I further find the landlord is entitled to recover the **\$50.00** filing fee from the tenant's estate pursuant to s. 65(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,450.00**. The Order must be served on the respondent. Should the respondent fail to comply with the Order, the Order may be enforced through the Provincial Court 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: April 17, 2014

Residential Tenancy Branch

