



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Park Drive Estates
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF, O

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The named landlord attended the hearing and as agent for the landlord company. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on May 28, 2014 no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only party who attended the hearing was the landlord. The landlord testified that the tenant was served on that date and in that manner and has provided a copy of a Canada Post receipt and registered mail tracking ticket, and I am satisfied that the tenant has been served in accordance with the *Manufactured Home Park Tenancy Act*.

The landlord gave affirmed testimony and provided evidentiary material in advance of the hearing, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Are the landlords entitled under the *Manufactured Home Park Tenancy Act* to an Order of Possession for unpaid rent or utilities?
- Have the landlords established a monetary claim as against the tenant for unpaid rent or utilities?

Background and Evidence

The landlord testified that this month-to-month tenancy of a manufactured home site began on May 1, 2013. Pad rent in the amount of \$325.00 per month was payable in

advance on the 1st day of each month. The parties did not have a written tenancy agreement; the tenant refused to sign one.

The landlord also testified that the tenant failed to pay rent when it was due in June, 2013. In July, 2013 the tenant paid \$330.00 but none in August. In September the tenant paid \$450.00 but none in October, 2013, leaving arrears outstanding in the amount of \$845.00.

The tenant went away for work for the winter and the landlord made a verbal agreement with the tenant that no rent would be collected from November, 2013 until the tenant returned, at which time the parties agreed the \$845.00 would be paid. However, when the tenant returned to the community, he did not return to the manufactured home and did not pay any rent. The landlord testified that having seen the tenant in the community, the landlord again started to charge the tenant rent for the manufactured home site in April, 2014.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on April 2, 2014 by posting it to the door of the rental unit. A copy of the notice has been provided and it is dated April 2, 2014 and contains an expected date of vacancy of April 2, 2014. The notice states that the tenant failed to pay rent in the amount of \$1,170.00 that was due on April 1, 2014. The tenant has not served the landlord with an application for dispute resolution disputing the notice, and the tenant has not paid the landlord any rent.

The landlord also testified that no deposits were collected from the tenant, and the landlord is not claiming any monetary amount from the tenant and withdraws that claim.

Analysis

The *Manufactured Home Park Tenancy Act* states that once a tenant is served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant must pay the rent in full or dispute the notice within 5 days of service. If the tenant does neither, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice which must be no less than 10 days after service.

In this case, I have reviewed the notice to end tenancy and find that it is in the approved form and contains the information required under the *Act*. I am also satisfied that the tenant has not disputed the notice and has not paid the rent, and therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy.

The *Act* also states that incorrect effective dates contained in a notice to end tenancy are changed to the nearest date that complies with the *Act*. The notice to end tenancy in this case is the same date that it was issued, which is not in compliance with the *Act*. The landlord testified that it was served by posting it to the door of the manufactured home on April 2, 2014, and I find that it is deemed served on April 5, 2014, being 3 days after posting it. Therefore, the effective date is changed to April 15, 2014.

In the circumstances, I am satisfied that the landlords are entitled to an Order of Possession.

The landlord withdrew the application for a monetary order and I hereby dismiss the application without leave to reapply.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession of the manufactured home site in favour of the landlords.

The landlords' application for a monetary order is hereby dismissed without leave to reapply as withdrawn.

This order is final and binding and may be enforced.

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: June 24, 2014

Residential Tenancy Branch

