



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Stonecliff Properties Ltd. DBA Stonecliff Park
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession for unpaid rent or utilities.

An agent for the landlord company attended the hearing and gave affirmed testimony, however no one for the tenant attended. The line remained open while the phone system was monitored for in excess of 10 minutes prior to hearing any testimony, and the only participant who joined the call was the landlord's agent. The landlord's agent testified that the tenant was served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on May 31, 2014 and has provided a copy of the Canada Post tracking number and tracking history, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All testimony and evidentiary material provided by the landlord is considered in this Decision.

Issue(s) to be Decided

Is the landlord entitled under the *Manufactured Home Park Tenancy Act* to an Order of Possession for unpaid rent?

Background and Evidence

The landlord's agent testified that the landlord company purchased the manufactured home park in November, 2013, which was tenanted, but the landlord company did not receive any tenancy agreements from the seller. The tenancy between the landlord company and the tenant began in November, 2013 when the park was purchased, and the tenant still resides in the park. Rent in the amount of \$215.40 per month is payable in advance on the 1st day of each month, and there are currently no rental arrears. The

landlord reduced rent to all tenants in May, 2014 by \$20.00 per month while improvements are being made to the park until the improvements are completed, and tenants have been told to anticipate a completion in October, 2014.

The tenant failed to pay rent when it was due for the month of May, 2014 and the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and sent it by registered mail to the tenant on May 3, 2014 and posted a copy to the door of the manufactured home on that date. A copy of the notice has been provided, and it is dated May 3, 2014 and contains an expected date of vacancy of May 18, 2014. The notice states that the tenant failed to pay rent in the amount of \$195.40 that was due on May 1, 2014. Both pages of the 2-page form have been provided. Also provided are the tracking number and tracking history showing that the document was mailed on May 3, 2014 but was not claimed by the tenant.

The tenant paid the outstanding rent in full on May 22, 2014 and the landlord issued a receipt that is clearly marked "For use and occupancy only; does not constitute instatement or reinstatement of a tenancy agreement." The landlord's agent testified that June's rent was also late, but the tenant has paid for June and July and in both cases the landlord issued a receipt showing that the rent was being accepted for use and occupancy only.

The landlord requests an Order of Possession stating that the tenant did not pay the rent within the 5 days provided under the *Manufactured Home Park Tenancy Act*.

Analysis

The *Manufactured Home Park Tenancy Act* states that once a tenant has been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent or dispute the notice. 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, and must move out by that date. In this case, the landlord testified, and provided evidence of having sent the notice to end tenancy to the tenant by registered mail on May 3, 2014 and testified that a copy was posted to the door of the manufactured home on that date. The *Act* specifies that service by posting is deemed to have been served 3 days later, and by registered mail is deemed to have been served 5 days after mailing. Although I accept the testimony of the landlord's agent, I have evidence of the mailing, and giving the tenant the benefit of any doubt, I find that the landlord has established that the tenant was deemed served with the notice on May 8, 2014.

I have reviewed the notice and find that it is in the correct form and it contains information that is consistent with the *Act* including the effective date of vacancy of May 18, 2014. I am also satisfied that the tenant did not dispute the notice and did not pay the rent by May 13, 2014, and therefore I find that the tenant is conclusively presumed to have accepted the end of the tenancy. Although I am also satisfied that the tenant paid the rent in full and there are currently no rental arrears, the landlord has also provided evidence of notifying the tenant in writing that the rental payments were being accepted for the use and occupancy of the manufactured home site only for rent owing to the landlord and did not serve to reinstate the tenancy. I find that the landlord is entitled to an Order of Possession on 2 days notice to the tenant because the tenant did not pay the rent or dispute the notice within the 5 days provided under the *Act*, and did not move from the manufactured home site by the effective date of the notice.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

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: July 09, 2014

Residential Tenancy Branch

