



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROYSOR ENTERPRISES LTD DBA MESA GROVE MOBILE HOME PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution (the "Application") for an Order of Possession and a Monetary Order for unpaid rent or utilities, and to recover the filing fee for the cost of making the Application.

The owner of the company named on the Application (the "Landlord") appeared for the hearing along with an assistant who both provided affirmed testimony during the hearing and also supplied written evidence in advance of the hearing. The Tenant failed to appear for the 30 minute duration of the hearing and provided no written evidence in advance of the hearing.

As a result, I turned my mind to the service of the paperwork by the Landlord. The parties testified that a copy of the Application and Notice of Hearing documents (the "hearing package") were served to the Tenant by attaching them to the Tenant's mobile home door on June 4, 2014.

Section 82 of the *Manufactured Home Park Tenancy Act* (the "Act") determines the methods of service for the hearing package. In relation to the Landlord's Application for an Order of Possession, I am able to accept the Landlord's method of service (by attaching these documents to the Tenant's door) in accordance with Section 82(2) (d) of the Act.

The Landlord testified that the hearing package had been removed from the door at some point after being attached. Section 83(c) of the Act provides that a document attached to a door is deemed to have been received three days after being attached. Therefore, based on the evidence before me, I find that the Tenant was served with the Landlord's Application for an Order of Possession on June 7, 2014

However, an Application for a monetary claim cannot be served by attaching it to the Tenant's door and is limited to the methods stipulated by Section 82(1) of the Act. Therefore, as the Landlord's monetary Application has not been served to the Tenant in accordance with the Act, I am unable to consider this portion of the Landlord's Application and I dismiss it with leave to reapply.

As a result, I continued to hear the Landlord's undisputed evidence in relation to the Order of Possession.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?

Background and Evidence

The Landlord testified that this tenancy started on March 1, 2010 on a month to month basis. No written tenancy agreement was completed but rent was established for the manufactured home park site under an oral agreement in the amount of \$254.00 payable by the Tenant on the first day of each month.

The Landlord's assistant testified that the Tenant had habitually and sporadically paid rent late; some months the Tenant paid partial amounts and for some months he paid nothing. The Landlord provided a document which detailed the payments and lack of payments made by the Tenant since the tenancy started.

The Landlord's assistant testified that by March, 2014 the Tenant was in rent arrears for the amount of \$3,220.00. As a result, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice"), on March 12, 2014 by registered mail; the Landlord provided a copy of the Canada Post tracking number as evidence for this method of service. The Notice was also provided in written evidence and shows an expected date of vacancy of March 21, 2014, due to \$3,220.00 of unpaid rent that was due on March 1, 2014. The Landlord testified that since this time the Tenant had failed to pay full rent for April, May, June and July, 2014 and seeks an Order of Possession for unpaid rent.

Analysis

Having examined the Notice, I find that the contents on the approved form complied with Section 45 of the Act. Based on the Canada Post tracking number provided by the Landlord as evidence, I accept that the Tenant was served the Notice by registered mail

on March 12, 2014. As a result, using the deeming provisions of Section 83(a) of the Act, I find that the Tenant was deemed served with the Notice on March 17, 2014.

Section 39(4) and (5) of the Act provides that within five days of a Tenant receiving a Notice, the Tenant must pay the overdue rent or make an Application to cancel the Notice; if the Tenant fails to do either, then they are conclusively presumed to have accepted the end of the tenancy and they must vacate the rental site on the date to which the Notice relates.

Therefore, I find that the Tenant failed to pay the outstanding rent on the Notice or make an Application to dispute the Notice by March 22, 2014. As the Tenant failed to comply with section 39(4) of the Act, I find that the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice and therefore, the Landlord is entitled to an Order of Possession. As the effective date of vacancy on the Notice (March 22, 2014) has now passed, I find that the Landlord is entitled to an immediate Order of Possession.

As the Landlord has been successful in this matter, the Landlord is also entitled to the \$50.00 filing fee for the cost of this Application pursuant to Section 65(1) of the Act.

Conclusion

For the reasons set out above, I grant the Landlord an Order of Possession for the manufactured home park site, effective **2 days after service on the Tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court if the Tenant fails to remove the manufactured home and vacate the site.

I also grant the Landlord a Monetary Order pursuant to Section 65 of the Act in the amount of **\$50.00**. This order must be served on the Tenant and may then be filed in the Provincial Court (Small Claims) 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: July 21, 2014

Residential Tenancy Branch

