



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prospero International Realty Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony.

The landlord testified that the application for dispute resolution and notice of hearing (the "hearing package") were served on the tenant by way of Canada Post's Xpresspost. However, the landlord testified that the hearing package was returned to the landlord with a notation made on the envelope by Canada Post to the effect that the package was "refused."

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which is understood to have begun approximately 7 or 8 years ago. Monthly rent is due and payable in advance on the first day of each month. Documentary evidence shows that effective July 01, 2014, the monthly rent became \$301.09, that immediately prior to that, the monthly rent was \$294.61, and that prior to that, the monthly rent was \$283.82.

Arising from rent which was unpaid when due on September 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated September 10, 2014. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the site is September 20, 2014. The amount of rent shown on the notice as unpaid is \$301.09. Subsequently, the tenant has made no further payment toward rent and she continues to occupy the site.

Documentary evidence submitted by the landlord also includes a ledger, which reflects unpaid rent and fees assessed for NSF cheques spanning a period from early in 2013 to the time of application. However, despite this, and as noted above, the 10 day notice documents unpaid rent limited to what was unpaid for the month of September 2014.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.gov.bc.ca/landlordtenant

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated September 10, 2014. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 39(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As for compensation, I find that the landlord has established entitlement to a claim of **\$1,028.27**, which is comprised as follows:

\$903.27: (\$301.09 x 3) *unpaid rent for September, October & November 2014*
\$75.00: (\$25.00 x 3) *service fees charged for NSF cheques*
\$50.00: *filing fee*

In the absence of any documentary evidence before me that the tenant was given notice of unpaid rent for the period of the tenancy prior to September 01, 2014, that aspect of the landlord's application is hereby dismissed with leave to reapply.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **November 30, 2014**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 60 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,028.27**. This order may be served on the tenant, filed in the Small Claims 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: November 14, 2014

Residential Tenancy Branch

