



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0868732 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Despite having been served with the application for dispute resolution and notice of hearing sent via registered mail on January 23, 2015, the tenant did not participate in the conference call hearing.

At the hearing, the landlord asked to amend her application to include a claim for loss of income for the month of February. I found that the tenant should reasonably have known that the landlord could not re-rent the site while the tenant's manufactured home was still in place and I allowed the amendment.

Issues to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenant is obligated to pay \$305.00 in rent in advance on the first day of each month. The tenancy agreement provides that if the rent is not paid by the fifth day of each month, a \$25.00 late payment fee is payable. The tenant has received a notice of rent increase which raises the rent to \$317.00 per month effective January 1, 2015.

For all of 2014, the tenant remained in a position of rental arrears and consistently paid rent late. In December 2014, she was \$905.30 in arrears and on December 15, the landlord served her with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice to the door of the manufactured home.

The tenant did not the rental arrears, she did not dispute the Notice and she did not vacate the manufactured home park site.

The landlord seeks to recover the rental arrears, which include several \$25.00 late payment fees, unpaid rent for January 2015 and the increased rental rate and a late payment fee for that month, unpaid rent for February 2015 at the increased rental rate and the \$50.00 filing fee paid to bring her application.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was in a position of rental arrears at the time she received the Notice on December 18, 3 days after it was posted to her door. The tenant did not dispute the Notice and did not pay the arrears and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an order of possession which must be served on the tenant and may be filed in the Supreme Court for enforcement.

I find that the tenant was obligated to pay rent in the amount of \$305.00 per month and was subject to \$25.00 late payment fees each time she paid rent after the fifth day of the month. I find that the landlord is entitled to recover those arrears. I find that because the tenant failed to vacate the rental unit pursuant to the Notice, the landlord has lost rental income for the months of January and February at the increased rate of \$317.00 for each of those months. I find that the landlord is entitled to recover from the tenant the value of that lost income. Because the tenancy ended on December 28, 2014 pursuant to the Notice, I find that the tenant was not under an obligation to pay rent in January and therefore cannot be subject to a late payment fee. I dismiss the claim for a late payment fee for January.

I award the landlord the following:

Rental arrears up to December 2015 (includes late payment fees)	\$ 905.30
Loss of income for January at increased rate	\$ 317.00
Loss of income for February at increased rate	\$ 317.00
Filing fee	\$ 50.00
Total:	\$1,589.30

I grant the landlord a monetary order under section 60 for \$1,589.30. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary award for \$1,589.30.

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: February 16, 2015

Residential Tenancy Branch

