



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LKA HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* ("the Act") for:

- an Order of Possession for unpaid rent pursuant to section 48;
- a monetary order for unpaid rent pursuant to section 60; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 65.

The tenants did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The 9:30 a.m. teleconference continued until 9:48 a.m. The landlord provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") was served to the tenants by registered mail in individual packages on December 23, 2014. Pursuant to section 81 and 83 of the Act, I find the tenants deemed served with the 10 Day Notice on December 28, 2014, 5 days after the registered mailing.

The landlord gave sworn testimony that she served each of the tenants by registered mail with an Application for Dispute Resolution hearing package on February 6, 2015. She testified that this mailing included all materials and evidence packages submitted to the Residential Tenancy Branch. Pursuant to section 82 and 83 of the Act, I find the tenants deemed served with the Application for Dispute Resolution hearing package on February 11, 2015, 5 days after their mailing.

Issues to be Decided under the MHPTA

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

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This tenancy began on August 1, 2008. The landlord testified that the tenants are either still residing at the manufactured home site. The current rental amount for the site is \$181.00 payable on the first of each month. The tenants are also responsible for utilities, according to the tenancy agreement submitted by the landlord.

The landlord has applied for an Order of Possession for unpaid rent for the month of December 2014 as well as outstanding rental arrears from September, October and November 2014. The landlord testified that the tenants did not pay rent of \$181.00 due on December 1, 2014 nor had the tenants paid rent in the previous three months. The landlord testified that she took over the ownership of the manufactured home park over a year ago. She testified that, during her time as landlord, the tenants have not paid any rent. The landlord testified that in November, she attempted to resolve the matter of unpaid rent with the tenants. She testified that the tenants agreed to make payments and pay all outstanding rental arrears by January 2015. The landlord testified that no payments were received by the tenants after that arrangement was made.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord testified that the tenants did not pay the December rent or any of the outstanding rental arrears noted on the notice to end tenancy after receiving the 10 Day Notice on December 28, 2014. The landlord testified that the tenants and their property continue to reside within the manufactured home park. She testified that she has, as of the date of this hearing, received no outstanding rental arrears. The landlord testified that January and February 2014 rent are now also unpaid.

The landlord testified that she has had no communication or contact with the tenants, despite her attempts to do so. She testified that her managers advise her that the site and the unit on the site are in disrepair and that there is a substantial amount of items on and around the rental site. The landlord testified that she will require time to clean up and make repairs after the tenants vacate the site. The landlord testified that she cannot likely re-rent the site for at least a portion of March 2015.

As well as an Order of Possession for unpaid rent, the landlord is seeking a monetary award of \$1002.00 for the months of September 2014 through to February 2015. She testified that the tenant had a credit before September and so the total six months was reduced by the amount of the credit.

The landlord also seeks recovery of the filing fee in this application.

Analysis

The landlord testified that the tenants continue to reside and have possession of the rental site; that the tenants have not paid rent since August 2014; that the tenants have not responded to the 10 Day Notice to End Tenancy or contacted the landlord to arrange payment; that the tenants' site will require clean-up after the tenants vacate the site. I accept the landlord's sworn and undisputed testimony.

The tenants failed to pay the December rent or any rental arrears within five days of receiving the 10 Day Notice to End Tenancy. The tenants have not made application pursuant to section 39(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 39(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by January 7, 2015, the date provided by the landlord on the 10 Day Notice. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

I find that the landlord is entitled to receive an order for unpaid rent from September 2014 to February 2015. I am issuing the attached monetary order that includes the landlord's application for \$1002.00 in unpaid rent from September 2014 to February 2015 with the tenants' credit deducted.

The monetary order sought for the month of March 2015 is based on the landlord's sworn testimony that she will be unable to rent the premises for that month. However, it is necessary for the landlord to take steps in mitigating any potential loss. The date of this hearing and decision will allow the landlord an opportunity to find a new tenancy for the site before the end of March 2015. I am issuing a monetary order that includes \$90.50 to reflect half of March rent. That amount recognizes that the landlord predicts the necessity of substantial clean-up and an inability of the landlord to begin a search for a new tenant prior to the date of this decision.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I am granting the landlords an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I issue a monetary Order in favour of the landlords as follows:

Items	Amount
Rental Arrears:	
September, October, November and December 2014 @ \$181.00 per month	
+ January and February 2015 @ \$181.00 per month	
– tenant credit (\$84.00)	\$1002.00
Rental Loss for March 2015 (1/2 month)	90.50
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$1142.50

The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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 27, 2015

Residential Tenancy Branch

