



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with an Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by

The applicant provided documentary evidence to confirm the respondent was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 52(3) of the *Manufactured Home Park Tenancy Act (Act)* by registered mail on January 27, 2015 in accordance with Section 82. Section 83 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

Based on the evidence of the applicant, I find that the respondent has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing the landlords confirmed that the tenancy originally began with another party and an order of possession was obtained against that party. However, the landlord's encountered difficulty in enforcing the order and the original tenant stopped all communication with the landlord.

Subsequent to this the landlords started receiving payments for use and occupancy from the respondent named in this Application who never entered into a written tenancy agreement with the landlords. The landlords submit that the respondent has since the respondent submitted an application for tenancy she has refused all communication with the landlords and as such no written tenancy agreement was completed.

Until February 2014 the landlords issued receipt to the original tenant for use and occupancy only for all payments received from the respondent and that these receipts were sent to the respondent who never accepted receipt of them and had them returned to the landlord. After February 2014 the landlord no longer issued such receipts.

Based on the above, I find that as of March 1, 2014 the respondent and the landlord created a tenancy when the tenant provided the landlord with a payment and the

landlord then accepted that payment as rent. I also find that the monthly rent is \$287.50 due on the 1st of each month.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 39, 48, 60, and 65 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on December 31, 2014 with an effective vacancy date of January 13, 2015 due to \$1,425.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of June, July, August, November, and December 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the door of the tenant's residence on December 31, 2014 at 9:00.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord acknowledges receipt of a payment of \$570.00 towards arrears on January 12, 2015 but also notes the tenant did not pay any amount towards January or February 2015 rent.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on January 3, 2015 and the effective date of the notice was January 13, 2015. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,442.50** comprised of rent owed for the

months of June, July, August, November, December 2014 and January and February 2015 less the amount received on January 12, 2015.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: February 26, 2015

Residential Tenancy Branch

