



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PARKBRIDGE LIFESTYLE COMMUNITIES INC
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;
- authorization to recover its filing fee for this application from the tenants pursuant to section 65.

The tenants did not attend this hearing, although I waited until 0915 in order to enable the tenants to connect with this teleconference hearing scheduled for 0900. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The agent is an employee of the landlord. The agent confirmed that he had authority to act on behalf of the landlord.

The agent testified that the landlord served the tenants with the dispute resolution package on 11 March 2015 by registered mail. The landlord provided me with Canada Post tracking numbers that showed the same. On the basis of this evidence, I am satisfied that the tenants were deemed served with the dispute resolution package pursuant to sections 82 and 83 of the Act.

The agent testified that all evidence before me was delivered to the tenants with the dispute resolution package. The evidence included two pages that relate to another tenancy. The agent asked that I remove and dispose of this page. I did.

The agent testified that the landlord served the tenants with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) on 4 February 2015 by posting

the notice to the tenants' door. On the basis of this evidence, I am satisfied that the tenants were deemed served with the 10 Day Notice pursuant to sections 81 and 83 of the Act.

Preliminary Issue – Amendment to Application

Paragraph 57(3)(c) of the Act allows me to amend an application for dispute resolution.

The agent asked that I exercise my discretion to amend the landlord's application to include the correct legal name of the tenant MD. Through the landlord's inadvertence the tenant MD's first and last names had been transposed. I granted this amendment as there is no undue prejudice to the tenants as it is clear that the application was in respect of their tenancy.

At the hearing, the agent asked to amend this application to include unpaid rent for April. As the tenants reasonably ought to have known that these amounts were owed if they continued to occupy the manufactured home site, I have allowed the amendment as there is no undue prejudice to the tenants.

At the hearing the agent asked to amend the landlord's application to remove the landlord's claim for late fees. I allowed this amendment as there is obviously no prejudice to the tenant in doing so.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the agent, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began on or about 1 September 2007. The tenants and the former owners of the manufactured home site entered into a written tenancy agreement dated 28 August 2007. Current monthly rent of \$810.00 is due on the first. The landlord provided me with the most recent rent increase dated 20 May 2014.

The agent testified that the current landlord of the manufactured home site purchased the manufactured home park in late 2012 or early 2013.

On 4 February 2015, the landlord issued the 10 Day Notice to the tenants. The 10 Day Notice was dated 4 February 2015 and set out an effective date of 17 February 2015. The 10 Day Notice set out that the tenants failed to pay \$1,620.63 in rent that was due on 1 February 2015.

On 2 March 2015, the tenants paid \$810.00 towards their rental arrears. The landlord issued a receipt to the tenants that the payment was received on the basis of “use and occupancy only”. The agent testified that the landlord has not received any payments from the tenants since 2 March 2015.

The landlord seeks a total monetary order in the amount of \$2,480.63:

Item	Amount
Unpaid December Rent	\$0.63
Unpaid January Rent	810.00
Unpaid February Rent	810.00
Unpaid March Rent	810.00
Less Use & Occupancy Only Payment	-810.00
Unpaid April Rent	810.00
Recover Filing Fee	50.00
Total Monetary Order Sought	\$2,480.63

Analysis

Pursuant to section 39 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

The tenants failed to pay the outstanding rent within five days of receiving the 10 Day Notice. The tenants have not made application pursuant to subsection 39(4) of the Act within five days of receiving the 10 Day Notice. In accordance with subsection 39(5) of the Act, the tenants’ failure to take either of these actions within five days led to the end of their tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by 17 February 2015. As that has not occurred, I find that the landlord is entitled to a two-day order of possession.

The agent has provided sworn and uncontested testimony that the tenants have unpaid rental arrears totaling \$2,430.63. I find that the landlord has proven its entitlement to the rent arrears. The landlord is entitled to a monetary order for the unpaid rent.

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 issue a monetary order in the landlord's favour in the amount of \$2,480.63 under the following terms:

Item	Amount
Unpaid December Rent	\$0.63
Unpaid January Rent	810.00
Unpaid February Rent	810.00
Unpaid March Rent	810.00
Less Use & Occupancy Only Payment	-810.00
Unpaid April Rent	810.00
Recover Filing Fee	50.00
Total Monetary Order	\$2,480.63

The landlord is provided with these orders in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: April 14, 2015

Residential Tenancy Branch