



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KING GEORGE ENT. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNDC, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the *Manufactured Home Park Tenancy Act (the "Act")*. The landlord applied for an order of possession for the manufactured home pad site due to unpaid pad rent, a monetary order for money owed or compensation for damage or loss and for unpaid pad rent, and for recovery of the filing fee paid for this application.

The landlord's agent (hereafter "landlord") attended; the tenants did not attend.

The landlord testified that he served tenant "SF" with their application for dispute resolution and notice of hearing by leaving the documents with SF on March 4, 2015, and on March 5, 2015, he served tenant "JT" by leaving the documents with JT.

Based upon the submissions of the landlord, I find the tenants were served notice of this hearing in a manner complying with section 82 of the *Manufactured Home Park Tenancy Act (the "Act")* and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the manufactured home pad site due to unpaid pad rent, a monetary order for unpaid pad rent and to recover the filing fee?

Background and Evidence

According to the landlord, this tenancy began four years ago and monthly pad rent is \$718.00.

The landlord submitted a handwritten document, signed by SF, the owner of the manufactured home park and a witness, wherein SF was designated as a guest of the manufactured home and that SF was voluntarily vacating the manufactured home on May 1, 2015, as she was not a tenant. According to the landlord, SF is still scheduled to vacate the manufactured home on May 1, 2015.

The landlord submitted further that JT is actually the tenant of the landlord, although he vacated the manufactured home approximately a year ago, while continuing to pay rent to the landlord. The landlord agreed that SF was not a tenant, and as he wanted an order of possession for the rental unit and a monetary order, he served SF with their application for dispute resolution.

In response to my question, the landlord confirmed not serving either SF or JT a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities form available on the Residential Tenancy Branch ("RTB") website.

The landlord's claim, in addition to seeking an order of possession for the manufactured home site, is a monetary claim for \$2932.00, for unpaid pad rent.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

As to respondent SF, I find that she is not a tenant for the tenancy, due to the confirmation of the landlord and I have therefore excluded her from any further consideration.

As to tenant JT, section 39(1) of the Act states that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice and such notice is in compliance with Section 45 of the Act, requiring among other things, that the notice be on the approved form.

In this case, the landlord has issued no such notice in the approved form to the tenant.

I therefore find that the landlord has submitted insufficient evidence to support his application as he has not issued the tenant a notice in compliance with section 39 and 45 of the Act, and I therefore dismiss the landlord's application.

Conclusion

The landlord's application is dismissed, for the reasons mentioned above.

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: April 29, 2015

Residential Tenancy Branch

