



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 48(4) of the *Manufactured Home Park Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 23, 2015, the landlord's agent "DS" served the tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Section 83 of the *Act* determines that a document served in this manner is deemed to have been received 5 days after service.

Based on the written submissions of the landlord, and in accordance with sections 82 and 83 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on July 28, 2015, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 39 and 48 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 60 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;

- A copy of a manufactured home park tenancy agreement which was signed by the landlord's agent and the tenant on October 30, 2014, indicating a monthly rent of \$278.00 due on the first day of the month for a tenancy commencing on November 1, 2014;
- A Monetary Order Worksheet showing the rent owing during the portion of this tenancy in question, on which the landlord establishes a monetary claim in the amount of \$278.00 for outstanding rent owing for July 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated July 3, 2015, which the landlord states was served to the tenant on July 3, 2015, for \$556.00 in unpaid rent due on July 1, 2015, with a stated effective vacancy date of July 15, 2015;
- A copy of the Proof of Service of the Notice showing that the landlord's agent "DS" served the Notice to the tenant on July 3, 2015 at 12:40 PM by way of leaving the Notice with an adult who apparently lives with the tenant. The landlord's agent indicates that the Notice was left with the tenant's girlfriend, an individual identified as "FW". The tenancy agreement does establish that "FW" was listed on the tenancy agreement included with the application. The Proof of Service form establishes that the service was witnessed by "ES" and a signature for ES is included on the form.

The Notice restates section 39(4) of the *Act* which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I have reviewed all documentary evidence and find that in accordance with section 88 of the *Act* the tenant was served with the Notice on July 3, 2015.

I find that the tenant was obligated to pay monthly rent in the amount of \$278.00, as established in the tenancy agreement. I accept the evidence before me that the tenant has failed to pay \$278.00 in rent for the month of July 2015. I find that the tenant received the Notice on July 3, 2015. I accept the landlord's undisputed evidence and find that the tenant did not pay the rent owed in full within the 5 days granted under section 39 (4) of the *Act* and did not apply to dispute the Notice within that 5-day period.

Based on the foregoing, I find that the tenant is conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice, July 15, 2015.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$278.00 for unpaid rent owing for July 2015, as of July 23, 2015.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. 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.

Pursuant to section 60 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$278.00 for unpaid rent owing for July 2015, as of July 23, 2015. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant 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.

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: July 29, 2015

Residential Tenancy Branch

