



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GOLDSTREAM TRAILER PARK LTD
and [tenant name suppressed to protect privacy]

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 two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on July 28, 2015, the landlord sent the tenants the Notices of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 82 and 83 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on August 2, 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 Proofs of Service of the Notices of Direct Request Proceeding served to the tenants;

- A copy of a manufactured home park tenancy agreement which was signed by the landlord and Tenant K.G. on August 28, 2009, indicating a monthly rent of \$485.00, due on the first day of the month for a tenancy commencing on October 1, 2009;
- A blank Monetary Order Worksheet; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 16, 2015, and posted to Tenant K.G.'s door on July 16, 2015, with a stated effective vacancy date of July 26, 2015, for \$545.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to Tenant K.G.'s door at 11:45 am on July 16, 2015. The 10 Day Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

I note that the landlord's Application for Dispute Resolution by Direct Request has not been signed by the landlord.

I find that the Monetary Order Worksheet provided by the landlord contains no information regarding the rent owing and paid during this tenancy and that this is a requirement under the Direct Request Proceeding.

I also note that the amount of rent on the tenancy agreement does not match the amount of rent being claimed on the 10 Day Notice. If there has been a rent increase, the appropriate Notice of Rent Increase forms must be submitted with the Application for Dispute Resolution to substantiate the claim for the increased rent.

I further note that the landlord has named Tenant A.D. who is indicated as “*next of kin/default executor/daughter*” in the Schedule of Parties submitted by the landlord. The landlord did not submit documentary evidence demonstrating that Tenant A.D. is, indeed the executor.

I find that deficiencies detailed above leave open questions that cannot be clarified within the purview of this Direct Request process.

I therefore dismiss the landlord’s application for an Order of Possession and a Monetary Order for rent owed for July, 2015 with leave to reapply.

The landlord is free to reapply and may consider applying through a participatory hearing. A participatory hearing could provide the proper venue to clarify the facts and make a determination on these issues.

Conclusion

I dismiss the landlord’s application for an Order of Possession and a Monetary Order for rent owed for July 2015 with leave to reapply.

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: August 05, 2015

Residential Tenancy Branch

