



Dispute Resolution Services

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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 two signed Proof of Service of the Notice of Direct Request Proceedings which declares that on November 14, 2015, the landlord posted the Notices of Direct Request Proceeding to the door of the rental unit. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceedings for each tenant to confirm this service. Based on the written submissions of the landlord and in accordance with sections 82(2) and 83 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on November 17, 2015, the third day after their posting.

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:

- Two copies of the Proof 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 the tenants on March 11, 2014, indicating a monthly rent of \$285, due on the first day of the month for a tenancy commencing on March 11, 2014;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 20, 2015, and posted to the tenants' door on October 20, 2015, with a stated effective vacancy date of October 30, 2015, for \$2,850.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 2:45 p.m. on October 20, 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

I have reviewed all documentary evidence and in accordance with sections 81 and 83 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on October 23, 2015, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$285.00, as per the tenancy agreement.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 39(4) of the *Act* and did not dispute the 10 Day Notice within that 5 day period

Based on the foregoing, I find that the tenants are conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, November 02, 2015.

In this type of matter, the landlord must prove they served the tenants with the Notices of Direct Request proceeding, with all the required inclusions, as indicated on the Notice as per Section 82 of the *Act*.

Section 82(1) of the *Act* does not allow for the Notice of Direct Request Proceeding to be given to the tenant by attaching a copy to a door at the address at which the tenant resides.

Section 82(2) of the *Act* does allow for the Notice of Direct Request Proceeding to be given to the tenant by attaching a copy to a door at the address at which the tenant resides, only when considering an Order of Possession for the landlord.

I find that the landlord has served the Notices of Direct Request Proceeding to the door of the rental unit at which the tenants reside, and for this reason, the monetary portion of landlord's application is dismissed with leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing from January 2015, up to and including October 2015, as of November 12, 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.

I dismiss the monetary portion of the landlord's application, 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: November 18, 2015

Residential Tenancy Branch

