



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PARKBRIDGE LIFESTYLE[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF O

Introduction

On June 15, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; a monetary order of \$1,187.51 for unpaid rent; and to recover the cost of the Application. The matter was set for a conference call hearing. The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord testified that she served the Tenant with the Application for Dispute Resolution and Notice of Hearing, by registered mail sent on June 20, 2016. A Canada Post tracking number was provided as evidence of service. I find that the Tenant has been duly served with the Notice of Hearing in accordance with section 82 of the *Manufactured Home Park Tenancy Act (the Act)*.

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

Is the Landlord entitled to an order of possession?
Is the Landlord entitled to a monetary order for unpaid rent?
Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began on November 1, 2014. Current rent in the amount of \$354.17 is payable on the first of each month.

The Landlord testified that the parties participated in a previous dispute resolution hearing that was settled by mutual agreement by the parties. The Landlord provided a copy of the settlement decision made by the Arbitrator. The Decision states that the Tenant agreed to pay the Landlord \$344.19 by March 2, 2016, and agreed to pay a further \$344.19 by April 2, 2016. The Arbitrator issued the Landlord a monetary order in the amount of \$688.38, to be used if the Tenant failed to pay as agreed.

The Landlord testified that the Tenant did not comply with the agreement. She testified that the Tenant only made one payment of \$300.00 on March 11, 2016.

The Landlord testified that the Tenant has also failed to pay the rent for the months of April 2016, May 2016, and June 2016. The Landlord testified that she is also claiming a late rent fee of \$25.00 per month for the unpaid rent. The Landlord provided a copy of the tenancy agreement that indicates the Tenant must pay a maximum late rent payment fee of \$25.00 per month. The Landlord previously waived the late rent fee for July 2015 and September 2015, as part of the settlement agreement, but wishes to claim it now because the Tenant did not honour the agreement.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 26, 2016, ("the Notice") on April 26, 2016. The Landlord testified that the Tenant was served with the Notice by posting the Notice on the Tenant's door. The Notice states that the Tenant has failed to pay rent in the amount of \$817.54.00 which was due on April 1, 2016. The Notice informs the Tenant that the Notice would be cancelled if the rent is paid within five days. The Notice also explains the Tenant has five days to dispute the Notice.

There is no evidence before me that that the Tenant made an application to dispute the Notice.

The Landlord testified that the Tenant did not pay the outstanding amount of rent within 5 days of receiving the Notice.

The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$1,187.51.

Analysis

Based on the evidence before me, and the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant did not pay the outstanding rent within five days of receiving the Notice, and did not apply to dispute the Notice, and is therefore conclusively presumed under section 39(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 48 of the Act, effective two days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

I find that the Tenant did not comply with the settlement agreement and also failed to pay the rent owing for April 2016, May 2016, and June 2016.

I find that the Tenant owes the Landlord \$1,062.51 for unpaid rent for the above months and also owes an additional \$125.00 for late fees.

Section 65 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was successful with her application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$1,287.51 comprised of \$1,062.51 in unpaid rent; \$125.00 in late fees, and the \$100.00 fee paid by the Landlord for this hearing. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant has failed to pay the manufactured home site rent. The Landlord is granted an order of possession and a monetary order for the unpaid rent and the filing fee in the amount of \$1,287.51

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 27, 2016

Residential Tenancy Branch