



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Dawson and Sawyer Capital Investments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and was accompanied by a property manager who did not testify or take part in the hearing. However the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant attended the call. The landlord's agent testified that the tenant was served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on January 31, 2017 and orally provided a tracking number. The landlord was permitted to send to me by facsimile proof of such service after the hearing concluded. I have now received a copy of a Canada Post registered mail tracking print-out containing the tracking number that was orally provided by the landlord's agent, showing that the registered mail was signed for by the tenant on February 1, 2017. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Is the landlord entitled under the *Manufactured Home Park Tenancy Act* to an Order of Possession for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy, being a site within a manufactured home park began prior to the landlord purchasing the property. The landlord's agent does not know when the tenant moved onto the property, but the owner

purchased the property in July, 2016 and the tenancy began prior to that. No written tenancy agreement exists, however rent in the amount of \$580.00 per month is payable on the 1st day of each month.

The tenant failed to pay rent in December, 2016 and the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by registered mail on December 12, 2016. A copy has been provided for this hearing and it is dated December 9, 2016 and contains an effective date of vacancy of December 19, 2016 for unpaid rent in the amount of \$580.00 that was due on December 1, 2016. The landlord's agent testified that a tracking print-out from Canada Post shows that the tenant signed for the registered mail on December 28, 2016 and was permitted to send that to me after the hearing concluded.

The tenant has not served the landlord with an application for dispute resolution disputing the notice and has not paid any rent since it was issued. No rent has been paid for December, 2016 or for January or February, 2017 and the tenant is currently in arrears of rent the sum of \$1,740.00. The landlord claims that amount as against the tenant in addition to recovery of the \$100.00 filing fee.

Analysis

I have received a copy of Canada Post registered mail tracking print-out containing the name and a signature of the tenant showing that the registered mail was received by the tenant on December 28, 2016. The landlord's agent testified that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was sent on December 12, 2016 and signed for by the tenant on December 28, 2016. The print-out does not show the date of mailing. Therefore, I accept that it was served on December 28, 2016.

Once a tenant is served, or deemed served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the notice), the tenant has 5 days to pay the rent or dispute the notice. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession.

In this case, I have reviewed the evidentiary material provided by the landlord, and having found that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was served on December 28, 2016, I accept the undisputed testimony of the landlord's agent that the tenant has not served the landlord with an application disputing the notice within 5 days, and I have no such application before me. I also accept the undisputed testimony of the landlord's agent that the tenant has not paid the rent and has fallen further into arrears of rent. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of

Possession. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenant.

With respect to the monetary application, I find that the landlord has established 3 months of unpaid rent, totalling \$1,740.00 for December, 2016, January and February, 2017 ($\$580.00 \times 3 = \$1,740.00$).

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I hereby grant a momentary order in favour of the landlord as against the tenant pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$1,840.00.

This order is final and binding and may be enforced.

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: February 28, 2017

Residential Tenancy Branch

