



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Timberlands Properties Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNR; OPR

Introduction

This is the Landlord's Application for Dispute Resolution seeking an Order of Possession and a Monetary Order for Unpaid Rent.

Both parties signed into the Hearing and gave affirmed testimony.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order, pursuant to the provisions of Sections 48 and 65 of the Act?

Background and Evidence

The parties agreed on the following facts:

- The Landlord served the Tenant with a Notice to End Tenancy, by posting the Notice to the door of the manufactured home on September 26, 2016.
- The Tenant did not dispute the Notice, or file an Application for Dispute Resolution seeking to set the Notice aside, within 5 days of receipt of the Notice.
- The Tenant owes the Landlord \$4,400.00.

During the course of the Hearing, the parties discussed a settlement agreement, but were unable to come to a resolution to settle this matter and continue the tenancy.

Analysis

Section 39(4) and (5) of the Act provides:

39 (4) Within 5 days after receiving a notice under this section, the tenant may

(a) pay the overdue rent, in which case the notice has no effect, or

(b) dispute the notice by making an application for dispute resolution.

(5) If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the manufactured home site to which the notice relates by that date.

[reproduced as written]

Section 83 of the Act deems service by posting to be effective three days after attaching the document to the door, in this case September 29, 2016. Therefore, I find that the Tenant is conclusively presumed to have accepted that the tenancy ended on October 9, 2016. The Tenant acknowledged that he owes the Landlord \$4,400.00. Therefore, I find that the Landlord is entitled to an Order of Possession and Monetary Order.

Conclusion

I find that the tenancy ended on October 9, 2016.

I hereby provide the Landlord with an Order of Possession effective **two days after service** of the Order upon the Tenant. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

I also provide the Landlord with a Monetary Order pursuant to Section 65 of the Act in the amount of **\$4,400.00** comprised of rent owed to the Landlord for the months of April, 2016 to and including October, 2016, along with loss of revenue for the months of November, 2016 to and including February, 2017. This Order may be filed in the Provincial Court (Small Claims) 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: March 01, 2017

Residential Tenancy Branch