



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR, FF

Introduction

This is an application brought by the Landlord requesting an Order of Possession based on a Notice to End Tenancy that was given for nonpayment of rent, and requesting a monetary order for outstanding rent and recovery of the filing fee.

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issues are whether or not the applicant has the right to an Order of Possession and whether or not the applicant has established monetary claim against the respondent, and if so in what amount.

Background and Evidence

The parties agree that this tenancy began on January 4, 2013.

The parties also agree that the present rent is \$500.00, due on the first of each month.

The landlord testified that the tenant has fallen well behind on the rent and therefore on February 13, 2017 and then again on February 24, 2017 he personally served the tenant with 10 day Notices to End Tenancy.

The landlord further testified that the tenant has failed to comply with the Notice to End Tenancy, and has failed to pay the outstanding rent, and therefore, as of today's date, there is still a total of \$1495.00 in rent outstanding.

The landlord is therefore requesting an Order of Possession for as soon as possible, and a monetary order for the outstanding rent and recovery of his filing fee.

The tenant testified that she does not dispute the amount of rent outstanding nor does she dispute the fact that the landlord served her with a 10 day Notice to End Tenancy.

The tenant stated that she has had some financial difficulties and is asking the landlord if he would allow her to continue the tenancy while she catches up on the outstanding rent.

In response to the tenant's request, the landlord stated he is no longer willing to allow the tenant to stay with the rent outstanding, as this has been an ongoing issue throughout the tenancy.

Analysis

Section 39 of the manufactured home Park tenancy act states:

39 (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

(2) A notice under this section must comply with section 45 *[form and content of notice to end tenancy]*.

(3) A notice under this section has no effect if the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from rent.

(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.

In this case the tenant has admitted that the rent is outstanding, and since she has failed to pay the outstanding rent within the five day time frame, the tenant is conclusively presumed to have accepted that the tenancy ends, and must vacate the manufactured home site.

It is my decision therefore that the landlord does have the right to an Order of Possession, and to a monetary order for the \$1495.00 outstanding rent and recovery of the \$100.00 filing fee.

Conclusion

Pursuant to sections 39 and 48 of the Manufactured Home Park Tenancy Act I have issued an Order of Possession that is enforceable two days after service on the tenant.

Pursuant to section 60 of the manufactured home Park tenancy act I have issued a monetary order in the amount of \$1595.00

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 29, 2017

Residential Tenancy Branch