



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ILLIANCE RIVER DEVELOPMENT CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, the cost of title searches, landlord's time to carry out searches and the filing fee.

The notice of hearing was served on the tenant by registered mail on March 07, 2017. The landlord filed a copy of the tracking history which indicates that the representative of the tenant picked up the package on March 09, 2017. Despite having been served the notice of hearing, the tenant's representative did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

During the hearing the landlord withdrew his application for the cost of searches and his time to carry out searches. Accordingly this hearing only dealt with the landlord's application for an order of possession and for a monetary order for unpaid rent and the filing fee.

The landlord testified that the tenant passed away on January 02, 2016. The tenant's daughter (DH) paid rent on the tenant's behalf for the two months following her demise. The tenant's daughter is named on this application along with the estate of the tenant.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for unpaid rent?

Background and Evidence

The tenancy started in August 2014. The current monthly rent is \$345.00 due in advance on the first of each month. The rental unit is a pad located in a mobile home park which houses a total of 70 rental pads.

The landlord testified that after the demise of the tenant in January 2016, her daughter DH took over the handling of the tenant's affairs. DH paid rent for February and March 2016 and informed the landlord that she had initiated probate and intended to sell the mobile home and use the proceeds to cover money owed by the tenant to the landlord. The landlord carried out searches and found that the legal process had not been initiated by DH.

The mobile home continues to occupy the rental pad. On March 06, 2017, the landlord served the tenant with a ten day notice to end tenancy for non-payment of rent in the amount of \$4,090.00. The notice was posted on the mobile home and mailed to DH, on March 07, 2017. DH did not dispute the notice and did not pay rent.

The landlord is applying for an order of possession effective two days after service on the tenant. The landlord stated that as of the date of this hearing, the tenant owes \$4,485.00 in unpaid rent.

Analysis

Residential Tenancy Policy Guideline #19 states that where a tenant or lessee dies, the executor, administrator of the estate or personal representative becomes the assignee of the tenancy in law and as such, is responsible for any rights and obligation under the original tenancy as a representative of the original tenant. The tenancy may subsequently be ended in accordance with the *Manufactured Home Park Tenancy Act*

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant's personal representative received the notice to end tenancy for unpaid rent, on or about March 10, 2017 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant's personal representative make application, pursuant to Section 39 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Manufactured Home Park Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 48 I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to his monetary claim for unpaid rent. As of the date of this hearing the tenant owes rent in the amount of \$4,485.00. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$100.00.

I grant the landlord an order under section 60 of the *Manufactured Home Park Tenancy Act* for the amount of \$4,585.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant.

I grant the landlord a monetary order in the amount of \$4,585.00.

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: April 21, 2017

Residential Tenancy Branch