



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Retire West Communities Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord

The landlord provided documentary evidence to confirm he had served the tenant with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 52(3) of the *Manufactured Home Park Tenancy Act (Act)* by registered mail on April 5, 2017 in accordance with Section 82. Section 83 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

The landlord acknowledged that he has received the hearing package from Canada Post as unclaimed. I find the tenant's failure to claim her registered mail is a deliberate attempt to avoid service. As such and based on the testimony and documentary evidence of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 39, 48, 60, and 65 of the *Act*.

Background and Evidence

The landlord testified that they do not have a copy of the tenancy agreement but that he understands the tenancy began approximately 16 years ago with a current monthly rent of \$310.00 due on the 1st of each month.

The landlord submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on March 22, 2017 with an effective vacancy date of April 3, 2017 due to \$1,315.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of October, November, and December 2016 and January, February, and March and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on March 22, 2017 at 4:20 p.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord did acknowledge receipt of a payment of rent in January 2017 and another payment on April 1, 2017 leaving a current balance of \$1,265.00 in unpaid rent.

Analysis

I have reviewed all documentary evidence and testimony and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on March 25, 2017 and the effective date of the notice was April 5, 2017. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 39(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,365.00** comprised of \$1,265.00 rent owed and the \$100.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: May 08, 2017

Residential Tenancy Branch