



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDC MNR OPR

Introduction

This hearing dealt with the corporate landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a Monetary Order pursuant to section 60 of the *Act*;
- an Order of Possession based on unpaid rent pursuant to section 48 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the landlord attended the hearing. The landlord was represented at the hearing by agent, D.L., (the "landlord"). The landlord was given a full opportunity to be heard, to present sworn testimony and to make submissions.

The landlord provided undisputed sworn testimony that a 10 Day Notice for Unpaid Rent ("10 Day Notice") was served on the tenant by way of Canada Post Registered Mail on June 6, 2017. A copy of the Canada Post receipt and tracking number was provided to the hearing. Canada Post records indicate that this package was signed for by the tenant on June 7, 2017. Pursuant to sections 88 & 90 of the *Act*, the tenant is deemed served with the 10 Day Notice on June 11, 2017.

The landlord explained that the Landlord's Application for Dispute Resolution (Landlord's Application) and evidentiary package was sent to the tenant by way of Canada Post Registered Mail on June 19, 2017. A Canada Post tracking number and receipt for the package was provided at the hearing. Canada Post records indicate that this package was signed for on June 20, 2017. Pursuant to sections 88, 89 & 90 of the *Act*, the tenant is deemed to have been served with these documents on June 24, 2017.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order for unpaid rent?

Can the landlord recover the filing fee?

Background and Evidence

D.L. gave undisputed testimony that this tenancy began on December 1, 2016. Rent was \$973.54 per month. The landlord stated that he is seeking an Order of Possession and a Monetary Order of \$3,020.62 as the tenant has failed to pay rent in full for June, July and August 2017. He noted that rent for these months was returned to him by the bank on June 5, 2017, July 6, 2017 and August 3, 2017. Specifically, the landlord seeks the following unpaid rent;

Item	Amount
Unpaid rent for June 2017	\$973.54
Unpaid rent for July 2017	973.54
Unpaid rent for August 2017	973.54
Return of Filing Fee	100.00
Total =	\$3,020.62

Analysis

Based on the landlord's undisputed evidence, I am satisfied that the landlord had sufficient grounds to issue the 10 Day Notice to end this tenancy. The tenant has not made an application pursuant to section 40 of the *Act* within five days of receiving the 10 Day Notice, nor has the tenant paid the outstanding rent. In accordance with section 40(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by the corrected effective date of the 10 Day Notice, June 21, 2017. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

Section 60 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The landlord provided undisputed testimony to the hearing, demonstrating that rent was not paid for June, July and August 2017, and that the money he set to receive for these months were returned to him by the bank due to the tenant having insufficient funds.

As this rent remains unpaid, and no evidence or testimony was provided to the hearing by the tenant, I find that pursuant to section 60 of the *Act*, the landlord is entitled to the entire sum of his Monetary Order.

As the landlord was successful in his application, he may recover the \$100.00 filing fee from the tenant pursuant to section 65 of the *Act*. This amount will be added to the Monetary Order awarded.

Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. The landlord will be given a formal Order of Possession which must be served on the tenant. Should the tenant or any other occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a Monetary Order in the landlord's favour in the amount of \$3,020.62 against the tenant. The landlord is provided with a Monetary Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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: August 17, 2017

Residential Tenancy Branch