



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 48;
- a monetary order for unpaid rent pursuant to section 60; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 65.

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord D.M. attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Landlord D.M. (the landlord) stated that she would be representing the interests of both landlords in this matter.

The landlord testified that the Landlord's Application for Dispute Resolution (the Application) and evidentiary package was sent to the tenant by way of registered mail on August 16, 2017. The landlord provided a copy of the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 81, 82 and 83 of the *Act*, I find that the tenant was deemed served with the Application and evidentiary package on August 21, 2017, the fifth day after its registered mailing.

The landlord entered into written evidence a signed and witnessed Proof of Service Document attesting to the fact that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was posted to the tenant's door at 3:45 p.m. on June 06, 2017. In accordance with sections 81 and 83 of the *Act* I find that the 10 Day Notice, identifying \$363.06 in rent owing for this tenancy, was deemed served to the tenant on June 09, 2017.

Preliminary Matters

The landlord's monetary claim on the Application is for \$1,110.86, comprising of \$363.06 in unpaid rent for June 2017, \$373.90 in unpaid rent for July 2017 and \$373.90 in unpaid rent for August 2017. The landlord testified that the tenant is still in the possession of the rental site and that the tenant paid \$983.42 towards the rent owed on September 06, 2017. The landlord testified that a receipt was issued to the tenant for this payment which indicated "temporary occupancy only" on it. The landlord requested to amend their Application to account for the payment made towards the rent owed on September 06, 2017 and for the unpaid September 2017 rent.

The landlord's amended application for a monetary award of \$501.34 is for the following items:

Item	Amount
Balance of Unpaid August 2017 Rent	127.44
Unpaid September 2017 Rent	373.90
Amended Requested Monetary Order	\$501.34

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord gave sworn testimony that this tenancy began on November 22, 2012, with a monthly rent of \$373.90 due on the first day of the month.

A tenant ledger showing the rent owing and paid during this tenancy was included in the landlord's evidence.

A copy of the signed 10 Day Notice, dated June 06, 2017, with an effective date of June 27, 2017, was also included in the landlord's evidence.

Analysis

Section 20 of the *Act* requires a tenant to pay rent to the landlord, regardless of whether the landlord complies with the *Act*, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the *Act*.

Based on the landlord's undisputed testimony, I find the tenant failed to pay any rent within five days of receiving the 10 Day Notice and did not make an application pursuant to section 39(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 39(5) of the *Act*, the failure of the tenant to take either of these actions within five days led to the end of this tenancy on June 27, 2017, the effective date on the 10 Day Notice. In this case, the tenant and anyone on the premises were required to vacate the premises by June 27, 2017. As this has not occurred, I find that the landlord is entitled to a two (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. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

Based on the landlord's written evidence and undisputed sworn testimony, I find that the landlord is entitled to a monetary award of \$501.34 for unpaid rent owing for this tenancy for August 2017 and September 2017.

As the landlords have been successful in this application, I allow them to recover their \$100.00 filing fee from the tenant.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant or anyone on the premises fail to comply with

this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 60 of the *Act*, I grant a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent and to retain the tenant's security deposit:

Item	Amount
Balance of Unpaid August 2017 Rent	127.44
Unpaid September 2017 Rent	373.90
Filing Fee for this Application	100.00
Total Monetary Order	\$601.34

The landlord is provided with this 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 Orders 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: September 12, 2017

Residential Tenancy Branch