



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 48(4) of the *Manufactured Home Park Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 29, 2017, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 82 and 83 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on October 4, 2017, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 39 and 48 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 60 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 65 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a manufactured home park tenancy agreement which was signed by the landlord on June 9, 2014 and the tenant on May 29, 2014, indicating a

monthly rent of \$702.00, due on the first day of each month for a tenancy commencing on July 1, 2014;

- Two copies of Notice of Rent Increase forms, showing the rent being increased from \$702.00 to the current monthly rent amount of \$745.00;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 1, 2017, with a stated effective vacancy date of September 25, 2017, for \$5,705.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 11:15 am on September 15, 2017. The 10 Day Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

Analysis

I note that the Application for Dispute Resolution submitted by the landlord shows the tenant's address without a street number. The correct address is shown on the tenancy agreement signed by both parties, the 10 Day Notice served to the tenant, and all other documents submitted along with the application. Subsection 57(3)(c) allows me to amend the application to match the tenancy agreement and the 10 Day Notice, which I have done.

I have reviewed all documentary evidence and in accordance with sections 81 and 83 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on September 18, 2017, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$745.00, as per the tenancy agreement and the Notices of Rent Increase.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 39(4) of the *Act* and did not dispute the 10 Day Notice within that 5 day period.

Based on the foregoing, I find that the tenant is conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, September 28, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$5,705, the amount claimed by the landlord, for unpaid rent owing for the period of February 2017 to September 2017 as of September 26, 2017.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant 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 find that the landlord is entitled to a Monetary Order in the amount of \$5,805.00 for rent owed for the period of February 2017 to September 2017 and for the recovery of the filing fee for this application. 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 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: October 05, 2017

Residential Tenancy Branch