



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR

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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 18, 2017, the landlords posted the Notice of Direct Request Proceeding to the manufactured home. The landlords had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service. Based on the written submission of the landlords and in accordance with section 82(2) and 83 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on November 21, 2017, the third day after their posting.

Issue(s) to be Decided

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

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 60 of the *Act*?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of a manufactured home park tenancy agreement which was signed by the landlord and the tenant on February 4, 2017, indicating a monthly rent of \$335.00, due on the first day of each month for a tenancy commencing on February 4, 2017;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated November 11, 2017 for \$335.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides 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 on the stated effective vacancy date of November 11, 2017;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 6:46 pm on November 2, 2017; and
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

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 November 5, 2017, three days after its posting.

Section 61 of the *Act* allows for the 10 Day Notice to be amended when it is reasonable to do so. I find that the date of the 10 Day Notice is for a date that had not occurred at the time that the 10 Day Notice was issued to the tenant, although the Notice was given to the tenant for rent owing in the month that it was received. For this reason, I have amended the date of the 10 Day Notice to reflect the day it was witnessed being posted to the tenant's door, November 2, 2017.

I find that the tenant was obligated to pay the monthly rent in the amount of \$355.00, as per the tenancy agreement.

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, November 15, 2017.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent owing for November 2017 as of November 14, 2017.

In this type of matter, the landlords must prove they served the tenant with the Notice of Direct Request proceeding with all the required inclusions as indicated on the Notice as per section 82 of the *Act*.

Section 82(1) of the *Act* does not allow for the Notice of Direct Request Proceeding to be given to the tenant by attaching a copy to a door at the address at which the tenant resides.

Section 82(2) of the *Act* does allow for the Notice of Direct Request Proceeding to be given to the tenant by attaching a copy to a door at the address at which the tenant resides, only when considering an Order of Possession for the landlords.

I find that the landlords have served the Notice of Direct Request Proceeding to the door of the rental unit at which the tenant resides, and for this reason, the monetary portion of the landlords' application is dismissed with leave to reapply.

Conclusion

I grant an Order of Possession to the landlords 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.

I dismiss the landlords' application for a Monetary Order for unpaid rent with leave to reapply.

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: November 22, 2017

Residential Tenancy Branch