



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR

Introduction

This hearing was convened in response to the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for Orders as follows:

- an order of possession for unpaid rent pursuant to section 48;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

Issues

Is the landlord entitled to an order of possession for unpaid rent?

Background and Evidence

This landlord purchased this manufactured home park on February 20, 2015. The tenancy began approximately 17 years ago. The current monthly rent is \$689.00 payable on the 1st day of each month.

The landlord testified that on June 1, 2017 he personally served the tenant with the 10 day Notice to End Tenancy for unpaid rent or utilities. A proof of service of this Notice was provided with the application with the tenant's signature confirming service. The 10 Day Notice indicates the tenant failed to pay rent in the amount of \$689.00 that was due on June 1, 2017.

The landlord testified that the tenant did not pay the outstanding amount of rent as indicated in the Notice within five days of service of the Notice. The landlord testified the outstanding rent was subsequently received on June 19, 2017 and the tenant was issued a receipt for use and occupancy only.

The tenant argues the 10 Day Notice was served on June 1, 2017 and the rent was not yet late at the time of service of the Notice.

The landlord replied that he served the 10 Day Notice on June 1, 2017 as the tenant advised him that she would not be paying rent.

Analysis

I am satisfied that the tenant was personally served with the 10 day Notice to End Tenancy on June 1, 2017 pursuant to section 81 of the Act.

Section 39(1) of the Act requires that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

I find the 10 Day Notice issued by the landlord is not valid as it was not served on a day after the day on which rent was due. The rent was due on June 1, 2017, as such; the landlord could have served the 10 Day Notice any day after this date. The landlord's argument that he served the 10 Day Notice early as he was instructed by the tenant that rent would not be paid does not provide an exemption to this requirement of the Act.

The 10 Day Notice dated June 1, 2017 is hereby cancelled and the landlord's application is dismissed without leave to reapply.

Conclusion

The landlord's application is dismissed without 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: December 11, 2017

Residential Tenancy Branch