



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding LADHA ENTERPRISES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR FF

This hearing dealt with the Landlord's Application for Dispute Resolution, made on October 31, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by D.E., an agent, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, D.E. testified the Application package was served on the Tenant by registered mail on November 3, 2017. Pursuant to sections 82 and 83 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenant is deemed to have received the Application package on November 8, 2017. The Tenant did not submit documentary evidence in response to the Application.

The Landlord's agent was provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
3. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

The Landlord operates a manufactured home park. The Tenant rents a pad in the park. On behalf of the Landlord, D.E. testified the current tenancy began about two years ago. The original tenant, the Tenant's father, moved away without notice to the Landlord. The Tenant remained in the manufactured home and continued to pay pad rent to the Landlord. Until January 1, 2018, pad rent was \$533.00 per month. On January 1, 2018, rent increased to \$554.00 per month. Pad rent is due on the first day of each month. The tenancy agreement provided for late payment fees in the amount of \$25.00 per month.

On behalf of the Landlord, D.E. testified the Tenant did not pay pad rent when due on August 1, September 1, and October 1, 2017. At that time, unpaid pad rent and late fees totalled \$1,163.00. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated October 2, 2017 (the "10 Day Notice"). The 10 Day Notice was served on the Tenant by posting a copy to the door of the Tenant's manufactured home with a witness present, on October 2, 2017. The Landlord submitted a copy of the 10 Day Notice into evidence, and a Proof of Service document confirming service in the above manner.

In addition, D.E. testified the Tenant did not pay pad rent when due on November 1 and December 1, 2017, and on January 1, 2018. However, the Tenant did make a single payment of \$1,500.00 on January 4, 2018. According to D.E., outstanding pad rent and late payment fees total \$1,358.00. This amount has been calculated as follows:

Date	Unpaid pad rent	Late fee	Total
Aug. 1, 2017	\$47.00	--	\$47.00
Sept. 1, 2017	\$533.00	\$25.00	\$605.00
Oct. 1, 2017	\$533.00	\$25.00	\$1,163.00
Nov. 1, 2017	\$533.00	\$25.00	\$1,721.00
Dec. 1, 2017	\$533.00	\$25.00	\$2,279.00
Jan. 1, 2018	\$554.00	\$25.00	\$2,858.00
LESS payment	--	--	(\$1,500.00)
TOTAL:			\$1,358.00

The Landlord also sought to recover the filing fee paid to make the Application.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

The Landlord sought an order of possession. In this case, D.E. testified, and I find, that the Tenant was served with the 10 Day Notice on October 2, 2017, when it was posted to the door of the Tenant's manufactured home. Pursuant to sections 81 and 83 of the *Act*, documents served in this manner are deemed to be received three days after they are attached. I find the Tenant is deemed to have received the 10 Day Notice on October 5, 2017. Accordingly, pursuant to section 39(4) of the *Act*, the Tenant had until October 10, 2017, to pay rent in full or dispute the 10 Day Notice by filing an application for dispute resolution. The Tenant did neither. Accordingly, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice, pursuant to section 39(5) of the *Act*. Based on the above, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

Further, section 20 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement. In this case, D.E. testified, and I find, that pad rent and late payment fees in the amount of \$1,358.00 remain outstanding, and that the Landlord is entitled to a monetary award in that amount. Having been successful with the Application, I find the Landlord is also entitled to recover the filing fee. Accordingly, I

find the Landlord is entitled to a monetary order in the amount of \$1,458.00, which is comprised of \$1,358.00 in unpaid pad rent and late fees, plus \$100.00 in recovery of the filing fee.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$1,458.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: January 17, 2018

Residential Tenancy Branch