



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREEN ACRES MOBILE HOME PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNRL FFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord's agent testified that the tenant was served with notice of this hearing (the Hearing Package) by registered mail on December 14, 2017 and has provided a cash register receipt issued by Canada Post bearing that date as well as a registered Domestic Customer Receipt addressed to the tenant and I am satisfied that the tenant has been served in accordance with the *Manufactured Home Park Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Manufactured Home Park Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began in July, 2004 and the tenant still resides in the manufactured home situated on a site within the manufactured home park. Rent in the amount of \$335.00 per month was payable on the 1st day of each month but was increased to \$345.00 per month effective January 1, 2018. Copies of the

tenancy agreement and the Notice of Rent Increase have been provided as evidence for this hearing.

The tenant failed to pay rent when it was due and on October 4, 2017 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided for this hearing, by sending it registered mail. It is dated October 4, 2017 and contains an effective date of vacancy of October 21, 2017 for unpaid rent in the amount of \$670.00 that was due on October 1, 2017. The landlord has also provided a copy of a Canada Post cash register receipt bearing that date as well as a Registered Domestic Customer Receipt addressed to the tenant. The tenant has not paid any rent since, and has not served the landlord with an application for dispute resolution disputing the notice.

The tenancy agreement provides for late fees of \$3.00 per day, to a maximum of \$25.00 per month. The tenant is currently in arrears the sum of \$1,810.00, including late fees of \$125.00 for the months of September, 2017 to January, 2018 inclusive.

The landlord seeks an Order of Possession and a monetary order in the amount of \$1,810.00 and recovery of the \$100.00 filing fee.

Analysis

The *Manufactured Home Park Tenancy Act* provides that a tenant served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities must pay the rent in full within 5 days of service, or deemed service, or must dispute the notice by filing and serving the landlord with an Application for Dispute Resolution within that 5 day period. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, the landlord has provided proof of serving the tenant with the notice by registered mail on October 4, 2017 which is deemed to have been served 5 days later, or October 9, 2017. The landlord's agent testified that the tenant has not paid any rent since its issuance and has not served the landlord with an Application for Dispute Resolution. I have no such application before me, and therefore I find that the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

I have also reviewed the tenancy agreement and the Notice of Rent Increase, and I am satisfied that the rental amount was \$335.00 per month and increased to \$345.00 per month effective January 1, 2018. The tenant has not paid any rent for the months of September, 2017 through January, 2018 and is currently in arrears of rent the sum of

\$1,685.00 and \$125.00 late fees. I grant a monetary order in favour of the landlord in the amount of \$1,810.00 for the unpaid rent and late fees.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$1,910.00.

This order is final and binding and may be enforced.

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 18, 2018

Residential Tenancy Branch