



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, FFL

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.

The landlords submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on December 21, 2017, the landlords sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlords and in accordance with sections 82 and 83, I find that the tenants are deemed to have been served with the Direct Request Proceeding documents on December 26, 2017, the fifth day after their registered mailing.

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 recover the filing fee for this application pursuant to section 65 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 landlords and Tenant C.S. on September 20, 2013, indicating a monthly rent of \$345.00, due on the first day of each month for a tenancy commencing on July 1, 2013;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated November 19, 2017 for \$371.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides that the tenants 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 December 2, 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 tenants' door at 5:20 pm on November 19, 2017;
- A copy of a receipt dated December 2, 2017, for \$371.00 of rent, paid by the tenant, which the landlord has indicated is "for use and occupancy only"; 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 tenants were deemed served with the 10 Day Notice on November 22, 2017, three days after its posting.

Paragraph 11 (1) (b) of the *Manufactured Home Park Tenancy Regulation* establishes that a tenancy agreement is required to be "signed and dated by both the landlord and the tenant."

I find that Tenant N.S. has not signed the tenancy agreement, which is a requirement of the direct request process. For this reason, I will only proceed with the portion of the landlords' application naming Tenant C.S. as a respondent.

I accept the evidence before me that Tenant C.S. has failed to pay the rent owed in full by November 27, 2017, 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 Tenant C.S. is conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, December 2, 2017.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent as of December 15, 2017.

As the landlords were successful in this application, I find that the landlords are entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on Tenant C.S. Should Tenant C.S. **and any other occupant** 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 65 of the *Act*, I find that the landlords are entitled to a Monetary Order in the amount of \$100.00 for the recovery of the filing fee for this application. The landlords are provided with this Order in the above terms and Tenant C.S. must be served with **this Order** as soon as possible. Should Tenant C.S. 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: January 03, 2018

Residential Tenancy Branch