



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MIRAE INVESTMENTS LTD. (CALEDONIA MHP)
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPRM-DR FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent and utilities, pursuant to section 48;
- a monetary order for unpaid rent and utilities pursuant to section 60; and
- authorization to recover the filing fee for this application, pursuant to section 65.

The tenant did not attend this hearing, although I waited until 9:49 a.m. in order to enable him to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agents DS and WL ('landlord') appeared on behalf of the landlord and had full authority to do so. Both agents were given a full opportunity to be heard, to present evidence and to make submissions.

The landlord's agent, DS, testified that the tenant was sent a copy of the dispute resolution hearing package ('Application') and evidence by way of registered mail on February 8, 2018. The landlord provided a Canada Post tracking number in their evidence. In accordance with sections 81, 82, and 83 of the *Act*, I find that the tenant had been deemed served with the Application and evidence on February 13, 2018, five days after mailing. The tenant did not submit any written evidence for this hearing.

The landlord's agent, DS, testified that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") by posting the notice on the door of the home on December 16, 2017.. In accordance with sections 81 and 83 of the *Act*, the 1 Month Notice was deemed served on December 19, 2017, three days after its posting.

Although the landlord applied for a monetary Order of \$743.40 in their initial claim, since they applied another \$540.88 in rent has become owing that was not included in their application. I have accepted the landlord's request to amend their original application from \$743.00 to \$1,283.88 to reflect this additional unpaid rent that became owing by the time this hearing was convened.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for Unpaid Rent?

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord's agents testified in this hearing that they had purchased the property in 2010, and the tenant was an existing tenant. Monthly pad rent was set at \$373.90 payable on the first of each month. The landlord imposed a rent increase effective February 2018, and rent is currently set at \$388.86.

The landlord issued the 10 Day Notice on December 16, 2017 to the tenant. A copy of the 10 Day Notice was included in the landlord's evidence. The landlord is seeking an Order of Possession, as well as a Monetary Order for \$1,283.88 as outlined in the table below and in the landlord's Application:

Item	Amount
Unpaid Rent for November 2017	\$369.50
Unpaid Rent for December 2017	373.90
Unpaid Rent for January 2018	373.90
Unpaid Rent for February 2018-April 2018 (rent increased to \$388.86/month)	1,166.58
Less payment made for use and occupancy only on April 7, 2018	-1,000.00
Total Monetary Order Requested	\$1,283.88

The tenant has only made one payment since the 10 Day Notice was issued, in the amount of \$1,000.00 on April 7, 2018. The landlord testified in the hearing that the payment was for use and occupancy only.

Analysis

Section 39 of the *Act* provides that upon receipt of a notice to end tenancy for unpaid rent the tenant may, within 5 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file his application for dispute resolution within 5 days of service granted under section 39(4) of the *Act*. Accordingly, 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, December 29, 2017.

In this case, this required the tenant and anyone on the premises to vacate the premises by December 29, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 48 of the *Act*.

Section 20 of the *Act*, in part, states as follows:

Rules about payment and non-payment of rent

20 (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. The landlord provided undisputed evidence that the tenant failed to pay the outstanding rent totalling \$1,283.88 for this tenancy. Accordingly I find that the landlord is entitled to \$1,283.88 in unpaid rent for this tenancy.

As the landlord was successful in his application, I find that the landlord is entitled to recover the filing fee for this application.

Conclusion

I grant an Order of Possession to the landlord 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.

Pursuant to section 60 of the *Act*, I find that the landlord is entitled to a Monetary Order in the amount of \$100.00 for recovery of the filing fee for this application. The landlord is provided with this and the tenant must be served with **this Order** as soon as possible. Should the tenant 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: April 11, 2018

Residential Tenancy Branch