



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-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 (the landlord) for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 15, 2018, the landlord personally served Tenant C.B. the Notice of Direct Request Proceeding. The landlord had Tenant C.B. and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 82, I find that Tenant C.B. has been duly served with the Direct Request Proceeding documents on June 15, 2018, the day it was personally served to them.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 15, 2018, the landlord served Tenant A.L. the Notice of Direct Request Proceeding by leaving it with Tenant C.B., an adult who resides with Tenant A.L. The landlord had a witness and Tenant C.B. sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service. Based on the written submission of the landlord and in accordance with section 82(2) of the *Act*, I find that Tenant A.L. has been duly served with the Direct Request Proceeding documents on June 15, 2018, in consideration of the Order of Possession only.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 39 and 48 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 60 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 65 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a manufactured home park tenancy agreement which was signed by the landlord and the tenants on July 01, 2016, indicating a monthly rent of \$240.00, due on the first day of each month for a tenancy commencing on July 01, 2016;
- A copy of a Notice of Rent Increase form showing the rent being increased from \$240.00 to the current monthly rent amount of \$248.80;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 07, 2018, for \$546.40 in unpaid rent. 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 June 17, 2018;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally handed to Tenant A.L. at 1:00 p.m. on June 07, 2018; and
- A Direct Request 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 section 81 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on June 07, 2018.

I find that the tenants were obligated to pay the monthly rent in the amount of \$248.80 as per the tenancy agreement and the Notice of Rent Increase form. I accept the evidence before me that the tenants have failed to pay the rent owed in full within the five days granted under section 39(4) of the *Act* and did not dispute the 10 Day Notice within that five day period. Based on the foregoing, I find that the tenants are 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, June 17, 2018.

In this type of matter, the landlord must prove they served the tenants with the Notice of Direct Request proceeding with all the required inclusions as indicated on the Notice as per Section 82 of the *Act*. Section 82(1) of the *Act* does not allow for the Notice of Direct Request Proceeding to be given to the tenant by leaving a copy with an adult who

resides with the tenant. Section 82(2) of the *Act* does allow for the Notice of Direct Request Proceeding to be given to the tenant by leaving a copy with an adult who resides with the tenant, only when considering an Order of Possession for the landlord.

I find that the landlord has served the Notice of Direct Request Proceeding to Tenant A.L. by leaving a copy with Tenant C.B., an adult who resides with Tenant A.L., and for this reason, the monetary portion of the landlord's application for unpaid rent naming Tenant A.L. as a respondent is dismissed without leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award against Tenant C.B. in the amount of \$496.40, the amount claimed by the landlord, for unpaid rent owing for June 2018 as of June 13, 2018. As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. Should the tenant(s) 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 sections 60 and 65 of the *Act*, I grant the landlord a Monetary Order in the amount of \$596.40 for rent owed for June 2018 and for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and Tenant C.B. must be served with **this Order** as soon as possible. Should Tenant C.B. 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: June 19, 2018

Residential Tenancy Branch