



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 landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on July 23, 2018, the landlord sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 82 and 83 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on July 28, 2018, the fifth day after their registered mailing.

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 May 1, 2016, indicating a monthly rent of \$479.50, due on the first day of each month for a tenancy commencing on May 1, 2016;
- A copy of a Notice of Rent Increase form showing the rent being increased from \$479.50 to the current monthly rent amount of \$498.59;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 10, 2018, for \$1,407.00 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 July 21, 2018;
- 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 4:35 pm on July 11, 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 sections 81 and 83 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on July 14, 2018, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$498.59, as per the tenancy agreement and the Notice of Rent Increase.

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 sections 39(5) and 46(2) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, July 24, 2018.

I note that the only monetary award available to a landlord by way of the direct request process is for unpaid rent and unpaid utilities. As the landlord has also sought a

monetary award for matters relating to three late fees in the amount of \$25.00 each, I would not be able to consider this aspect of the landlord's claim through the direct request process.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount of \$1,332.00, the amount claimed by the landlord, for unpaid rent owing for May 2018, June 2018, and July 2018 as of July 23, 2018.

As the landlord was partially 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 tenant(s). 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 find that the landlord is entitled to a monetary Order in the amount of \$1,432.00 for rent owed for May 2018, June 2018, and July 2018 and for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(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.

I dismiss the balance of the landlord's application for a Monetary Order with leave to reapply.

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: July 30, 2018

Residential Tenancy Branch