



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LOMBARDY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNRL-S FFL

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 48;
- a Monetary Order for unpaid rent pursuant to section 60; and
- authorization to recover the filing fee from the tenant pursuant to section 65.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The corporate landlord was represented by its agent (the "landlord") who attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice"), dated July 2, 2018 was served on the tenant on that date by posting on the tenant's door. I find that the tenant was deemed served in accordance with sections 81 and 83 of the *Act*, on July 5, 2018, three days after posting.

The landlord testified that the landlord's application for dispute resolution dated July 16, 2018 and evidentiary materials were sent to the tenant by registered mail on that date. The landlord provided a Canada Post tracking number as evidence of service. I find that the tenant was deemed served with the landlord's application package in accordance with sections 82 and 83 of the *Act* on July 21, 2018, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?
Is the landlord entitled to monetary compensation as claimed?
Is the landlord entitled to recover their filing fees?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This tenancy began prior to March, 2013 when the landlord took over the tenancy. The current monthly rent is \$355.00 payable on the first of the month.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$710.00, the amount sought in the 10 Day Notice. The landlord testified that the tenant has not made payment since the 10 Day Notice was issued nor are they aware of the tenant having filed a dispute of the 10 Day Notice. The landlord testified that the tenant has failed to pay rent for June and July, August and September 2018. The landlord said that they are simply seeking the amount on the initial 10 Day Notice and an Order of Possession.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$355.00. I accept the landlord's evidence that the tenant failed to pay the full rent due within the 5 days of service granted under section 39(4) of the *Act* nor did the tenant dispute the 10 Day Notice within that 5 day period. 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, June 15, 2018. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 48 of the *Act*.

I accept the landlord's undisputed evidence that there is an arrear for this tenancy in the amount of \$710.00. I issue a monetary award in the landlord's favour for unpaid rent of \$710.00 as at September 13, 2018, the date of the hearing, pursuant to section 60 of the *Act*.

As the landlord's application was successful the landlord is entitled to recover the filing fee for this application.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$810.00 which allows the landlords to recover unpaid rent for June and July, 2018 and the filing fee for this application.

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: September 13, 2018

Residential Tenancy Branch