



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAPLE RIDGE ESTATES
and [tenant name suppressed to protect privacy]

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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 5, 2019, the landlord sent to the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 82 and 83 of the *Act*, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents on February 10, 2019, 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 on December 20, 2012 and the tenant on December 7, 2012, indicating a monthly rent of \$425.00, due on the first day of each month for a tenancy commencing on January 18, 2013;
- Four copies of Notice of Rent Increase forms, showing the rent being increased from \$425.00 to the current monthly rent amount of \$466.25;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated January 8, 2019, for \$466.25.00 in unpaid rent. The 10 Day Notice provides that the tenant 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 January 19, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to the tenant at 11:20 am on January 8, 2019;
- A copy of a receipt dated January 17, 2019, for \$932.50 of rent, paid by the tenant, which the landlord has indicated is “for use and occupancy only”; 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 tenant was duly served with the 10 Day Notice on January 8, 2019.

I find that the tenant was obligated to pay the monthly rent in the amount of \$466.25, as per the tenancy agreement and the Notices of Rent Increase.

I accept the evidence before me that the tenant has failed to pay the rent owed in full by January 13, 2019, 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 tenant 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, January 19, 2019.

I find that the tenant made a payment on January 17, 2019 in the amount of \$932.50, which was accepted for use and occupancy of the rental unit for the months of January 2019 and February 2019.

As the landlord has received payment in full for rent owing for January 2019, I dismiss the landlord's application for a Monetary Order for unpaid rent owing for January 2019 without leave to reapply.

I also find that, as the tenant has paid for occupancy for the month of February 2019, the tenant is entitled to remain on the rental site until the end of February 2019.

Therefore, I find that the landlord is entitled to an Order of Possession, for unpaid rent owing as of January 31, 2019.

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 **on February 28, 2019, 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 65 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$100.00 for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms 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.

I dismiss the landlord's application for a Monetary Order for unpaid rent owing for January 2019 without 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: February 11, 2019

Residential Tenancy Branch