



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM, FFL

Introduction

This hearing dealt with an application by the landlord under the *Manufactured Home Park Tenancy Act*, SBC 2002, c 77, as amended (“the *Act*”) for the following claims:

- An order for possession pursuant to section 48;
- A monetary order for unpaid rent pursuant to section 60; and
- Authorization to recover the filing fee for this application pursuant to section 65.

The agent KI attended the hearing representing the landlord “(the landlord)”. The landlord was given an opportunity to present affirmed testimony, call witnesses and submit evidence.

The tenants did not attend the hearing. I kept the teleconference line open from the time the hearing was scheduled, plus an additional ten minutes, to allow the tenants the opportunity to call. I confirmed the correct call-in number and participant code for the tenants had been provided.

The landlord testified the landlord sent the Notice of Hearing and Application for Dispute Resolution to each of the tenants by individual registered mail on March 20, 2019. The landlord provided the Canada Post tracking numbers referenced on the first page of this decision in support of service. Section 83 of the *Act* deems the tenants to have received the documents 5 days later, on March 25, 2019.

Pursuant to sections 82 and 83. I find the landlord served the tenants with the Notice of Hearing and Application for Dispute Resolution on March 25, 2019.

Amendment to increase monetary award requested

The landlord requested an amendment to the landlord’s application to increase the monetary order requested from \$800.00 to \$2,400.00 to include additional outstanding

rent for the months of April and May 2019. The landlord's application, submitted in March 2019, pre-dated the due date for rent for April and May 2019 and as such the landlord's claim does not reflect outstanding rent for April and May 2019.

Section 4.2 of the Rules of Procedure provide that a landlord's monetary claim may be amended at the hearing in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made.

I find the tenants could reasonably anticipate the landlord's claim would be amended to include outstanding rent for the months of April and May 2019. The amendment would not be prejudicial to the respondent.

Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the landlord's applications to increase the landlord's overall claim by \$1,600.00 for unpaid rent for the months of April and May 2019. The total monetary order requested by the landlord is \$2,400.00 as well as \$100.00 reimbursement of the filing fee.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to section 48 of the *Act*?

Is the landlord entitled to a monetary order pursuant to section 60 of the *Act*?

Is the landlord entitled to reimbursement of the filing fee pursuant to section 65 of the *Act*?

Background and Evidence

The landlord provided uncontradicted affirmed testimony as the tenants did not appear at the hearing.

The parties entered into month to month tenancy agreement beginning January 4, 2019 for monthly rent of \$800.00 payable on the first of the month.

The landlord submitted a copy of the manufactured home park tenancy agreement.

The landlord testified the tenants are currently in arrears of rent of \$2,400.00. The landlord submitted a copy of a ledger showing rent paid and owing.

The landlord testified a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Ten-Day Notice") was posted to the tenants' door on March 20, 2019 thereby effecting service under section 83 of the *Act* on March 23, 2019.

The landlord submitted a copy of the Ten-Day Notice as evidence.

The Ten-Day Notice provides 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 April 2, 2019.

The landlord testified the tenants did not pay rent after service of the Ten-Day Notice and did not make an application for dispute resolution. The landlord provided uncontradicted testimony the full amount claimed remains unpaid and owing to the landlord.

The landlord submitted a Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy indicating rent outstanding as stated above at the time the Ten-Day Notice was served.

The tenants continue to occupy the unit.

Analysis

I find the form and content of the Ten-Day Notice complies with section 45 of the *Act*.

I find the tenants were served with the Ten-Day Notice on March 23, 2019 in accordance with sections 82 and 83 of the *Act*.

I find the tenants did not pay the overdue rent or dispute the Ten-Day Notice within the five-day period following service.

Therefore, pursuant to section 39(5), the tenants are conclusively presumed to have accepted the tenancy ends on the effective date of the notice April 2, 2019 requiring the tenants to vacate the rental unit by that date.

As the tenants continue to occupy the unit, I find the landlord is entitled to an order of possession under section 46, effective two days after service.

I therefore grant the landlord an order of possession effective two days after service.

Based on the uncontradicted evidence of the landlord, I grant the landlord a monetary award pursuant to section 60 for outstanding rent in the amount of \$2,400.00.

As the landlord was successful in this application, I award the landlord the amount of \$100.00 for reimbursement of the filing fee.

In summary, I grant the landlord a monetary order for **\$2,500.00** calculated as follows:

ITEM	AMOUNT
Award to landlord for outstanding rent	\$2,400.00
Reimbursement of filing fee	\$100.00
Monetary Order	\$2,500.00

Conclusion

I grant the landlord a monetary order in the amount of **\$2,500.00**. This order must be served on the tenants. If the tenants fail to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) to be enforced as an order of that Court.

I grant the landlord an order of possession **effective two (2) days** after service on the tenants. This order must be served on the tenants. If the tenants fail to comply with this order, the landlord may file the order with the Supreme Court of British Columbia to be 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 *Residential Tenancy Act*.

Dated: May 02, 2019

Residential Tenancy Branch