



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASPEN PLACE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FFL

Introduction

This non-participatory matter was conducted by way of a direct request proceeding, pursuant to section 48(4) of the *Manufactured Home Park Tenancy Act* (the “Act”), via the documentary submissions of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the manufactured home site and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”).

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on April 30, 2019, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord’s application, by leaving the documents with the tenant. The landlord’s Proof of Service was signed by a witness who observed the landlord leaving the documents with the tenant. Based upon the submissions of the landlord, I am satisfied that the landlord served the tenant as required.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the manufactured home site pursuant to section 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 additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on February 7, 2017, indicating a monthly rent of \$230.00 plus \$32.00 in fees, due on the first day of the month beginning February 1, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated April 2, 2019, with a stated effective move out date of April 12, 2019, listing \$271.20 in unpaid rent as of April 1, 2019;
- A signed Proof of Service that the tenant was served the Notice by personal service on April 2, 2019; and
- Copies of a Notice of Standard Rent Increase, issued to the tenant on January 1, 2018, listing a new rent of \$239.20, effective May 1, 2018.

The Notice stated that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

I have no evidence before me that the tenant paid the rent listed or filed an application for dispute resolution to dispute the Notice.

Analysis

I have reviewed the landlord's documentary evidence and accept that the tenant has been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as submitted by the landlord.

I accept the landlord's documentary evidence that the tenant failed to pay the rent owed in full within the five days granted under section 39(4) of the Act.

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 Notice. Therefore, I find that the landlord is entitled to an order of possession for the manufactured home site.

As to the landlord's request for a monetary order for unpaid rent of \$271.20, the amount listed is not the current monthly rent of \$239.20. I therefore find the landlord has submitted inconclusive evidence that the amount listed on the Notice was the actual rent owed as they did not submit particulars of the breakdown on their monetary claim.

I therefore dismiss their monetary claim of \$271.20, with leave to reapply.

As the landlord was successful in this application for an order of possession, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant the landlord an order of possession for the manufactured home site effective two days after service on the tenant. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court should the tenant fail to comply with the terms of the order of possession. The tenant is advised that costs of such enforcement may be recovered from the tenant.

The landlord's application for a monetary order for unpaid rent is dismissed, with leave to reapply.

I grant the landlord a monetary order in the amount of \$100.00, pursuant to section 65 of the Act, for recovery of the filing fee. This order is a legally binding, final order, and should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement may be recovered from the tenant.

Therefore, the landlord may wish to submit a new application for their monetary claim through the normal dispute resolution process, which includes a participatory hearing, to explain any discrepancies in their request for unpaid rent.

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: May 3, 2019

Residential Tenancy Branch