



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kahana Holdings Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, OPR, FF

Introduction

This hearing was reconvened as a participatory proceeding as set out in the Interim Decision dated May 21, 2019 (the “Interim Decision”). The Landlord applied pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 60;
2. An Order of Possession - Section 48; and
3. An Order to recover the filing fee for this application - Section 65.

The Tenant did not attend the hearing. The Interim Decision orders the Landlord to serve the Tenant with the notice of reconvened hearing, the Interim Decision and all other documents within 3 days receipt of the Interim Decision and notice of reconvened hearing. I accept the Landlord’s evidence that the Tenant was served with these materials by registered mail on May 25, 2019 in accordance with section 82 of the Act. Section 83 of the Act provides that a document served in accordance with section 82 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Interim Decision and notice of reconvened hearing on May 30, 2019. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession and unpaid rent?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy, without written agreement, started over 5 years ago. Pad rent of \$293.00 is payable on the first day of each month. The Tenant did not pay rent for May 2019 and on May 6, 2019 the Landlord served the Tenant with a 10-day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Notice sets out unpaid rent of \$293.00 due May 1, 2019. The Tenant has not paid the arrears, has not disputed the Notice, has not moved out of the unit and has not paid rent for June 2019.

Analysis

Section 39 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the undisputed facts I find that the Landlord gave the Tenant the Notice and the Tenant did not dispute the Notice or pay the arrears. For these reasons I find that the Tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the unit.

Section 48 of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Based on the undisputed facts that the Tenant has not moved out of the unit and as the Landlord made the application seeking an order of possession, I find that the Landlord has substantiated an entitlement to an order of possession.

Section 20 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the

regulations or the tenancy agreement. Based on the undisputed facts of the amount of rent payable and that the Tenant has not paid the rent for May and June 2019, I find that the Landlord has substantiated an entitlement to **\$586.00**. As the Landlord's application has been successful I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$686.00**.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the Landlord an order under Section 60 of the Act for the balance due of **\$686.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: July 05, 2019

Residential Tenancy Branch