



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 form which declares that on October 27, 2019, the landlord's agent served the tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Section 83 of the *Act* determines that a document served in this manner is deemed to have been received 5 days after service.

Based on the written submissions of the landlord, and in accordance with sections 82 and 83 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on November 01, 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

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

On the landlord's Application for Dispute Resolution by Direct Request, the landlord seeks an Order of Possession based on unpaid rent and a Monetary Order for unpaid rent in the amount of \$1,116.00.

The landlord submitted the following evidentiary material:

- A copy of a manufactured home park tenancy agreement which was signed by the landlord's agent and the tenant on May 20, 2011, indicating a monthly rent of \$275.00, due on the first day of each month;
- A copy of a "Notice of Rent Increase" form provided to the tenant during the course of the tenancy, which shows that the monthly rent was increased to the current amount of \$286.00, effective April 01, 2018;
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy in question, on which the landlord establishes that there is a cumulative balance of unpaid rent owed by September 01, 2019 in the amount of \$1,016.00, comprised of the balance of unpaid rent owed for the months encompassing the period of April 2019 to September 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated September 11, 2019, which the landlord states was served to the tenant on September 11, 2019, for \$1,716.00 in unpaid rent due on September 01, 2019, with a stated effective vacancy date of September 21, 2019; and
- A copy of the Proof of Service of the Notice showing that the landlord's agent served the Notice to the tenant by way of posting it to the door of the rental unit on September 11, 2019. The Proof of Service form establishes that the service of the Notice was witnessed and a name and signature for the witness are included on the form.

The Notice restates section 39(4) of the *Act* which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I have reviewed all documentary evidence provided by the landlord. Section 83 of the *Act* provides that because the Notice was served by posting the Notice to the door, the tenant is deemed to have received the Notice three days after its posting. In accordance with sections 81 and 83 of the *Act*, I find that the tenant is deemed to have received the Notice on September 14, 2019, three days after its posting.

I find that as of April 01, 2018, the tenant was obligated to pay monthly rent in the amount of \$286.00, as the landlord has established that the monthly rent amount was increased from the initial amount established in the tenancy agreement, to the current amount of \$286.00, as per the Notice of Rent Increase form.

I accept the evidence before me that the tenant has failed to pay the balance of rental arrears due by September 01, 2019, in the amount of \$1,016.00, comprised of the balance of unpaid rent owed for the months encompassing the period of April 2019 to September 2019.

I accept the landlord's undisputed evidence and find that the tenant did not pay the rent owed in full within the 5 days granted under section 39 (4) of the *Act* and did not apply to dispute the Notice within that 5-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 corrected effective date of the Notice, September 24, 2019 pursuant to section 46(2) of the *Act*.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$1,016.00 for unpaid rent owed by September 01, 2019, as claimed on the landlord's Application for Dispute Resolution by Direct Request.

As the landlord was 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 **two days after service of this Order** on the tenant. Should the tenant(s) 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 sections 60 and 65 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$1,116.00 for unpaid rent, and 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.

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: November 26, 2019

Residential Tenancy Branch