



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL MNRL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on August 20, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent;
- a monetary order for damage, compensation or loss; and
- an order granting recovery of the filing fee.

The Landlord's Agents, S.S., N.A., as well as the Tenant's representative, R.H., attended the hearing at the appointed date and time and provided affirmed testimony.

The Landlord's Agents testified that they served the Application and documentary evidence package to the executors of the Tenant's Estate by registered mail. R.H. confirmed receipt. Pursuant to Section 81 and 82 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent, pursuant to Section 60 of the *Act*?
2. Is the Landlord entitled to a monetary order for damage, compensation or loss, pursuant to Section 60 of the *Act*?

3. Is the Landlord entitled to an order granting the recovery of the filing fee, pursuant to Section 65 of the Act?

Background and Evidence

The parties agreed that the tenancy began on July 16, 2005. The Tenant was required to pay rent in the amount of \$501.45 which was due to be paid to the Landlord on the first day of each month. The Tenant was not required to pay a security deposit. The Tenant past away sometime before November 2018 and his daughters assumed ownership of the Mobile Home.

The Landlord's Agents stated that the Tenant's Estate had been paying the rent when due to the Landlord each month up until November 2018. The Landlord's Agents stated that they had attempted to contact the Tenant's daughters who were listed as the owners of the Mobile home, however, they were met with some resistance. The Landlord submitted a copy of a Mobile Home Registry confirming ownership.

The Landlord's Agents stated that the parties had a previous hearing in which the Landlord was awarded an Order of Possession on January 3, 2019, in relation to the unpaid rent. The Landlord's Agents stated that after serving the Order of Possession, they were required to obtain a Writ of Possession on May 14, 2019 as no one from the Tenants Estate had paid the rent, sold, or removed the Mobile Home. The Landlord is seeking to be reimbursed the \$120.00 filing fee that was paid to obtain the Writ of Possession. The Landlord provided a copy of the receipt in support.

The Landlord's Agents stated that as of July 2019, there has been a Court appointed Bailiff that has began their process of dealing with the Mobile Home. As such, the Landlord is claiming for unpaid rent from November 2018 to July 2019 in the amount of \$4,484.76.

In response, R.H. confirmed that she is the Tenant's daughter and shares ownership of the Mobile Home with her sisters. R.H. acknowledged that no rent has been paid to the Landlord since November 2018. R.H. stated that communication with the Landlord has been lacking and that she was unaware of the amount of rent owed. Furthermore, R.H. stated that the Landlord has not provided her with key to access the Mobile Home to list it for sale. R.H. questioned why it took the Landlord so long to employ the services of a Bailiff and why the Mobile Home is not yet listed for sale. R.H. doesn't feel as though rent should be paid as a result of the Landlord delaying the process.

The Landlord is seeking compensation in the amount of \$78.75 in relation to landscaping fees associated with having to maintain the Tenant's rental pad. The Landlord's Agents stated that the owners of the Mobile Home are required to maintain the rental pad. The Landlord's Agents stated that in June of 2019 they hired a landscaper to cut down the overgrown landscape on the rental pad. The Landlord submitted a receipt in support.

The Landlord is claiming \$200.00 for legal fees as they were required to consult a lawyer throughout the process. The Landlord is claiming \$71.66 for postage fees related to serving documents associated with his proceeding. If successful, the Landlord is also claiming the return of the filing fee paid to make the Application.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 20(1) of the Act confirms:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 60 of the Act confirms:

Without limiting the general authority in section 55 (3) [director's authority respecting dispute resolution proceedings], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I accept that the parties agreed that no rent has been paid to the Landlord from November 2018 to July 2019 in the amount of \$4,484.76. During the hearing, R.H. confirmed that she is a part owner of the Mobile Home. The Tenant stated that she doesn't feel as though rent should be paid as the Landlord has not taken action in a timely manner to employ a Bailiff to sell the Mobile Home. Furthermore, R.H. stated that the Landlord had not provided her with keys to the home so that she can list the Mobile Home for sale.

In this case, I find that it would have been the responsibility of the registered owners of the Mobile Home, after being served the Order of Possession, to make arrangements to sell, or remove the Mobile Home themselves. I find that it would have been the registered owner's responsibility to have access to the Mobile Home and that if keys weren't available, then they could have employed the services of a Locksmith to gain entry to the Mobile Home.

I find that no one from the Tenant's Estate took action to mitigate their losses and that the Landlord proceeded with caution throughout the process to seek legal advice and follow the proper procedure of employing a Court appointed Bailiff. While both parties agreed that communication was lacking, I find that the Landlord took the appropriate

steps, which took some time. I find that the Landlord was unable to re-rent the pad as a result of the owners of the Mobile Home taking no action.

As such, I find that the Landlord is entitled to monetary compensation relating to the unpaid rent from November 2018 to July 2019 in the amount of \$4,484.76. I also find that the Landlord is entitled to monetary compensation in the amount of \$120.00 for the filing fee paid to obtain the Writ of Possession on May 14, 2019.

With respect to the Landlord's claim for \$78.75 for landscaping fees, I am satisfied that the Tenant was required to maintain the landscape of the rental pad throughout the tenancy, which had not been completed by the owners of the rental unit. As such, I find that the Landlord has established an entitlement to monetary compensation in the amount of \$78.75.

In regards to the Landlord's claim for a monetary order for compensation in the amount of \$200.00 for legal fees, as well as \$71.66 for postage fees, I find that the *Act* does not provide relief for costs associated with doing business as a Landlord such as consultation and mailing costs. As such, I find that the Landlord is not entitled to compensation for these costs and dismiss this portion of the Landlord's claim without leave to reapply.

I find the Landlord has established an entitlement to a monetary award in the amount of \$4,683.51. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application.

Pursuant to section 60 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$4,783.51, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$4,484.76
Writ of Possession Fee:	\$120.00
Landscaping Fee:	\$78.75
Filing fee:	\$100.00
TOTAL:	\$4,783.51

Conclusion

The Landlord is granted a monetary order in the amount of \$4,783.51. The monetary order should be served to the Tenant's Estate as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: December 04, 2019

Residential Tenancy Branch