



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Parkbridge Lifestyle Communities
Inc. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Manufactured Home Park Tenancy Act* ("Act"), for a direct request for an order of possession for unpaid rent, further to having served a 10 Day Notice to End Tenancy for Unpaid Rent dated July 9, 2021 ("10 Day Notice"); with a request for a monetary order of \$1,845.10 for outstanding unpaid rent from the Tenant; and to recover the \$100.00 cost of their Application filing fee.

Two agents for the Landlord, L.M. and S.W. ("Agents"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Agents, and gave them an opportunity to ask questions about the hearing process. During the hearing, the Agents were given the opportunity to provide their evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agent testified that the Tenant was served with the Notice of Hearing documents by Canada Post registered mail, sent on August 27, 2021. The Landlord provided a Canada Post tracking number, as evidence of service. I find that the Tenant was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Agents in the absence of the Tenant.

Preliminary and Procedural Matters

The Agents provided the Parties' email addresses in the hearing, and they confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

I asked the Agents about the identity of the Landlord, as the Landlord who applied is different from the Landlord identified on the tenancy agreement. The Agent advised me that the current Landlord (identified in this Decision) purchased the property in 2012. The Agent pointed to the rent increase forms he submitted, which I find confirm the identity of the current Landlord in the matter before me.

At the outset of the hearing, I advised the Agents that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

The Agent said that the Landlord requests that I amend the amount of compensation sought, as he said the Tenant has continued to fail to pay any rent since the Application was served. The Agent said that the Tenant currently owes \$4,678.27, rather than \$1,845.10 that was owing when the Application was first made.

Pursuant to Rule 4.2 and section 64 (3) (c) of the Act, I amend the Application for dispute resolution to correct the amount of the monetary order sought, reflecting the ongoing failure of the Tenant to pay her monthly rent owing. I find no prejudice to the Tenant, as she is aware of how much rent she has or has not paid; therefore, she could have anticipated that the Landlord would claim reimbursement for the full amount of rent owing. Accordingly, after correcting the original amount claimed, I find it reasonable to amend the amount of the monetary order sought by the Landlord from the Tenant from \$1,845.10 to \$4,678.27.

Issue(s) to be Decided

- Is the Landlord entitled to an order of possession?
- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

Background and Evidence

The tenancy agreement states, and the Agent confirmed in the hearing that the periodic

tenancy began in this manufactured home park on October 1, 2007, with a monthly rent of \$656.00, due on the first day of each month. The Agent testified that the Tenant's rent has risen to \$944.39 per month, since the tenancy began.

The Agent submitted a copy of the 10 Day Notice that he said was served to the Tenant. The Agent confirmed that the 10 Day Notice was signed and dated July 9, 2021, it has the rental unit address, and it was served by being posted on the rental unit door on July 9, 2021. The 10 Day Notice has an effective vacancy date of July 22, 2021, and it was served on the grounds that the Tenant failed to pay \$1,845.10 when it was due on July 1, 2021.

The Agent said that the Tenant has not paid any rent since May 2021, although, he said there was a \$43.68 credit in her account, which was included in the total. The following table sets out the rent owing by the Tenant to the Landlord, pursuant to the Agents' evidence.

Date Rent Due	Amount Owing	Amount Received	Amount Owing
June 1/21	\$944.39	\$0.00	\$944.39
July 1/21	\$944.39	\$0.00	\$944.39
Aug 1/21	\$944.39	\$0.00	\$944.39
Sep 1/21	\$944.39	\$0.00	\$944.39
Oct 1/21	\$944.39	\$0.00	\$944.39
		Sub-Total	\$4,721.95
	Amount paid since Notice		\$43.68
	TOTAL		\$4,678.27

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Section 20 of the Act confirms that a tenant must pay rent when due under a tenancy

agreement, whether or not the landlord complies with the Act, the regulations, or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

Further, section 39 of the Act permits a landlord to take steps to end a tenancy when rent remains unpaid on any day after the day it is due by issuing a notice to end tenancy for unpaid rent. A tenant has five days after receipt of a such a notice to pay the overdue rent or dispute the notice by applying for dispute resolution. Failure to pay the overdue rent or dispute the notice results in the conclusive presumption that the tenancy ends on the effective date of the notice.

In this case, I find the Tenant received the 10 Day Notice on July 12, 2021, three days after it was posted on the door. Accordingly, and pursuant to section 39 of the Act, the Tenant had until July 17, 2021 to dispute the 10 Day Notice by applying for dispute resolution or pay rent in full. Based on the undisputed evidence before me, I find that the Tenant neither paid her rent in full nor applied to dispute the 10 Day Notice,

I find that overdue rent has not been paid and that rent of \$4,678.27 remains outstanding. Accordingly, I find the Landlord has demonstrated an entitlement to a monetary award of \$4,678.27 for unpaid rent owing by the Tenant, which amount I award to the Landlord, pursuant to sections 20, 39, 60, and 65 of the Act.

As rent has not been paid when due, I find further that the Landlord is entitled to an **Order of Possession**, which will be **effective two days after service** on the Tenant. I grant the Landlord an Order of Possession, pursuant to section 48 of the Act.

Given the Landlord's success in this Application, I also award the Landlord with recovery of the \$100.00 Application filing fee, pursuant to section 65 of the Act. I grant the Landlord a monetary order from the Tenant of **\$4,778.27**, pursuant to sections 20, 39, 60, and 65 of the Act.

Conclusion

The Landlord is successful in their Application, as they provided sufficient evidence to meet their burden of proof on a balance of probabilities. Given their success, the Landlord is awarded recovery of the \$100.00 filing fee for this Application

I grant the Landlord a Monetary Order under section 60 of the Act from the Tenant in the amount of **\$4,778.27**.

This Order must be served on the Tenant by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

Pursuant to section 48 of the Act, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. 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 Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: October 05, 2021

Residential Tenancy Branch