



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-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 to obtain an Order of Possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the applicant on October 17, 2021.

The applicant submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on October 21, 2021, the applicant sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The applicant provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

Based on the written submissions of the applicant and in accordance with sections 82 and 83 of the *Act*, I find that the Direct Request Proceeding documents were served on October 21, 2021 and are deemed to have been received by the tenant on October 26, 2021, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the applicant entitled to an Order of Possession for unpaid rent pursuant to sections 39 and 48 of the *Act*?

Is the applicant entitled to monetary compensation for unpaid rent pursuant to section 60 of the *Act*?

Is the applicant 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.

The applicant submitted the following relevant evidentiary material:

- A copy of a manufactured home park tenancy agreement which names a landlord who is not the applicant and was signed by the tenant on July 29, 2003, indicating a monthly rent of \$210.00, due on the first day of each month for a tenancy commencing on August 1, 2003
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 5, 2021, for \$347.34 in unpaid rent. The 10 Day Notice provides that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of October 18, 2021
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the tenant by e-mail at 3:13 pm on October 5, 2021
- A copy of an e-mail from the tenant dated September 27, 2021 indicating the applicant could serve documents to the tenant by e-mail
- A copy of an e-mail sent from the applicant to the tenant on October 5, 2021, containing the 10 Day Notice as an attachment
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the applicant to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the applicant cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

I have reviewed all documentary evidence and I find that the landlord's name on the tenancy agreement does not match the landlord's name on the Application for Dispute Resolution.

The applicant submitted a copy of e-mails implying the applicant may be an employee of the business landlord named on the tenancy agreement. However, I find there is no evidence or documentation showing that the applicant the owner of the company or is otherwise entitled to have orders issued in their name.

As this is an *ex parte* proceeding that does not allow for any clarification of the facts, I have to be satisfied with the documentation presented. The discrepancy in the landlord's name raises a question that cannot be addressed in a Direct Request Proceeding.

For this reason, the applicant's request for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

As the applicant was not successful in this application, I find that the applicant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the applicant's request for an Order of Possession and a Monetary Order for unpaid rent with leave to reapply.

I dismiss the applicant's request to recover the filing fee paid for this application without leave to reapply.

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, 2021

Residential Tenancy Branch