



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-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 to obtain an Order of Possession based on 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 landlord on August 15, 2022.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on September 1, 2022, the landlord sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to a PO Box. The landlord provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this 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 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 landlord submitted the following relevant evidentiary material:

- A copy of a manufactured home park tenancy agreement which was signed by the landlord and the tenant on October 22, 2021, indicating a monthly rent of \$467.00, due on the first day of each month for a tenancy commencing on January 1, 2022

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated August 2, 2022, for \$467.00 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 August 2, 2022
- 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 registered mail at 12:00 pm on August 2, 2022
- A copy of a Canada Post Customer Receipt and tracking report containing the tracking number to confirm the 10 Day Notice was sent to the tenant on August 2, 2022
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy

Analysis

In this type of matter, the landlord must prove they served the tenant with the Notice of Dispute Resolution Proceeding – Direct Request and all documents in support of the application in accordance with section 82 of the *Act*. The landlord must also prove they served the tenant with the 10 Day Notice in accordance with section 81 of the *Act*.

Sections 81 and 82 of the *Act* permit service by sending a copy by registered mail to the address at which the person resides or, by sending a copy by registered mail to a forwarding address provided by the tenant.

I find that the address indicated on the Proof of Service Notice to End Tenancy and the Proof of Service Notice of Direct Request Proceeding forms are a PO Box and not the rental address established in the tenancy agreement.

There is also no indication as to whether the tenant provided the landlord this address for service of documents. Furthermore, I find that the tracking report and Canada Post's online tracking system show that the packages were not picked up by the tenant.

I find I am not able to confirm service of the 10 Day Notice and the Notice of Dispute Resolution Proceeding - Direct Request to the tenant, which is a requirement of the Direct Request process.

For this reason, the landlord's application for an Order of Possession for unpaid rent is dismissed with leave to reapply.

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

Conclusion

I dismiss the landlord's application for an Order of Possession for unpaid rent with leave to reapply.

I dismiss the landlord's application 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: September 27, 2022

Residential Tenancy Branch