



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding REIN HOLDINGS INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

The Landlord applied for dispute resolution ("Application") by way of an *ex parte* Direct Request Proceeding under section 48(4) of the *Manufactured Home Park Tenancy Act* (the "Act"). The Landlord requests an Order of Possession after issuing a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") under section 39 of the Act, a Monetary Order for unpaid rent under section 60 of the Act and authorization to recover the filing fee for their Application from the Tenant under section 65 of the Act.

During the direct request proceeding it was determined by the Adjudicator that it was not possible to confirm if all three pages of the Notice were served to the Tenant as only the first two pages were submitted into evidence by the Landlord. Also, the name of the Landlord on the Application did not correspond to that seen on the Notice, therefore clarity on this matter was required. As a result, it was ordered that the proceeding be adjourned and reconvened as participatory hearing under section 67 of the Act.

At the hearing the Landlord was represented by an Agent who affirmed to tell the truth during proceedings and was given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions. A witness for the Landlord also attended the hearing. The teleconference commenced at 11:00 A.M. and the line was left open until 11:13 A.M. to enable the Tenant to call in, however no party attended for the Tenant.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. During the hearing, I also confirmed from the online teleconference system that the Landlord's Agent and I were the only parties who had called into this teleconference.

Rule 7.1 of the *Rules of Procedure* states that a hearing will commence at the scheduled time, unless otherwise set by the Arbitrator.

Rule 7.3 of the *Rules of Procedure* states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the application with or without leave to reapply.

The Landlord's Agent testified the Notice of Dispute Resolution Package ("Materials") for the Direct Request Proceeding was served on the Tenant via registered mail on March 21, 2023 and the Materials for the adjourned hearing were served on the Tenant on April 17, 2023 via registered mail. Therefore, I find that pursuant to section 82 of the Act that the Landlord's Materials were sufficiently served to the Tenant. The registered mail tracking number is displayed on the envelope and is included on the front page of this Decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to a Monetary Order for unpaid rent?
3. Is the Landlord entitled to recover the filing fee for the Application from the Tenant?

Background and Evidence

The attending party was given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this Decision.

The Landlord's Agent confirmed the following regarding the tenancy:

- The tenancy started on October 1, 2013.
- Rent is \$263.00 per month due on the first day of the month having been increased, effective April 1, 2023.
- There is a written tenancy agreement which was entered into evidence by the Landlord.
- The Tenant still occupies the rental site.

The Landlord's Agent testified as follows. There had been an ongoing issue of the Tenant paying rent late. They had tried to working things out with the Tenant and reach a solution. The Tenant had promised to pay the rental arrears in January 2023, however no payment was made.

As a result, the Landlord's Agent issued the Notice on February 9, 2023 via registered mail. The Canada Post tracking number is included on the front page of this Decision. A copy of the Notice was entered into evidence by the Landlord. The Notice is signed February 9, 2023, provides an effective date of April 1, 2023 and lists outstanding rent amounting to \$755.00 as of February 1, 2023.

No rent has been paid since the Notice was issued and the total outstanding rent, as of May 1, 2023 amounted to \$1,231.00. The Landlord seeks a Monetary Order for the unpaid rent and an Order of Possession.

The Landlord's Agent testified that all three pages of the Notice were served to the Tenant and had been a scanning error resulting in only the first two pages being submitted into evidence.

The Landlord's Agent testified that they are the President and Owner of the company listed as the Landlord on the Application. Their name appears on the Tenancy agreement and the Notice.

Analysis

Section 20 of the Act requires tenants to pay rent on time unless they have a legal right to withhold some, or all, of the rent. Additionally, section 39(1) of the Act allows a landlord to end a tenancy if the tenant does not pay rent on time by issuing a 10 Day Notice to End Tenancy for Unpaid Rent.

I accept the Landlord's Agent's undisputed testimony that rent due February 1, 2023 was not paid by the Tenant. Therefore, I find on a balance of probabilities that the Notice was given for a valid reason, namely, the non-payment of rent. I also find that the Notice complies with the form and content requirements of section 45 of the Act.

The Notice was served on February 9, 2023 by registered mail, therefore would have been deemed received on February 14 2023, the fifth day after it is mailed in accordance with section 83 of the Act.

I accept the Landlord's Agent's undisputed testimony that the outstanding rent was not paid in full within five days of the Tenant receiving the Notice. Had this been done it would have meant the Notice has no effect in accordance with section 39(4)(a). Additionally, there is no record of the Tenant disputing the Notice. Therefore, under section 39(5) of the Act, the Tenant is presumed to have accepted the Notice.

Based on the above findings, the Landlord is granted an Order of Possession pursuant to section 48(2)(b) of the Act. I find that the Tenancy ended on April 1, 2023 in accordance with the Notice.

The Landlord is entitled to an order for unpaid rent under section 48(1.1) of the Act. Therefore, the Tenant is ordered to pay \$1,231.00 in unpaid rent to the Landlord.

As the Landlord has been successful in their Application, I order the Tenant to pay the Landlord the amount of \$100.00 in respect of the filing fee in accordance with section 65 of the Act.

Conclusion

The Application is granted.

The Landlord is issued an **Order of Possession**. A copy of the Order of Possession is attached to this Decision and must be served on the Tenant. The Tenant has two days to vacate the rental unit from the date of service or deemed service. If the Tenant does not comply with the Order of Possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that court.

The Landlord is issued a **Monetary Order**. A copy of the Monetary Order is attached to this Decision. It is the Landlord's obligation to serve the Monetary Order on the Tenant. The Monetary Order is enforceable in the Provincial Court of British Columbia (Small Claims Court).

The Order is summarized below.

Item	Amount
Unpaid rent	\$1,231.00
Filing fee	\$100.00
Total	\$1,331.00

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: May 15, 2023

Residential Tenancy Branch