



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession and Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord testified that the tenant was served with the hearing documents via registered mail sent to the rental site on September 26, 2012. The landlord provided a registered mail receipt, including tracking numbers, as proof of service. I was satisfied the tenant has been sufficiently served and I proceeded to hear from the landlord without the tenant present.

Preliminary and Procedural Matters

An Order of Possession was previously issued to the landlord with respect to this tenancy on June 6, 2011. The landlord testified that after the Order of Possession was issued in June 2011 the parties reinstated the tenancy under a verbal agreement that the tenant pay the monthly rent and make partial payments towards the rental arrears. I am satisfied that the tenancy was re-instated and, as a result, the Order of Possession issued June 6, 2011 may no longer be enforceable. Thus, I find it appropriate that the landlord has filed for another Order of Possession by way of this application and I proceed to consider the landlord's application for such.

A Monetary Order was also issued to the landlord on June 6, 2012 for unpaid rent for the months of April, May and June 2011. The outstanding portion of that Monetary Order remains enforceable. Accordingly, this decision and the Monetary Order that accompanies it only deals with the monetary claims pertaining to the months of July 2011 to the date of this hearing.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent for the months of July 2011 through October 2012?

Background and Evidence

The tenancy commenced January 8, 2008. The monthly rent was initially \$400.00 and then increased to \$434.00 over the years and then again to \$450.00 as of April 1, 2012. The tenancy agreement provides for a late fee of \$25.00.

The landlord submitted that the tenant failed to pay any rent for the months of July 2011, November 2011, June 2012, September 2012 or October 2012. In addition, the tenant made only partial payments for April 2012, May 2012, July 2102 and August 2012.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on August 28, 2012 and personally served it upon the tenant in the presence of a witness. The Notice has a stated effective date of September 11, 2012. The tenant did not dispute the Notice and after receiving the Notice. After the Notice was served the tenant made one payment of \$434.00 on August 28, 2012.

The Notice indicates \$3,436.00 was outstanding as of August 1, 2012 with a notation that this amount is the "total arrears". The landlord explained during the hearing that this amount includes arrears from April, May and June 2011 that were previously included in the Monetary Order issued June 6, 2011.

I requested the landlord provide me with a ledger showing the landlord's calculations after the teleconference call. The landlord provided the requested ledger shortly after the teleconference call showing an amount outstanding for July 2011 through October 2012 of \$2,209.00 including a \$25.00 late fee for October 2012.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 39(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental site by the effective date of the Notice.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on September 11, 2012 and the landlord is entitled to regain possession of the rental site. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

As I informed the landlord during the hearing, the unpaid portion of the Monetary Order issued June 6, 2011 remains enforceable. Accordingly, any Monetary Order issued with this decision pertains to rent or other amounts payable since June 2011.

Based upon the ledger provided by the landlord, and upon review of the tenancy agreement, I find the landlord entitled to recover unpaid rent, loss of rent and a late fee for the months of July 2011 through October 2012 in the amount of \$2,209.00. I further award the landlord the \$50.00 filing fee paid for this application.

In light of the above, the landlord has been provided a Monetary Order in the total amount of \$2,259.00 to serve upon the tenant and enforce as necessary.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been provided a Monetary Order in the amount of \$2,259.00 for unpaid rent, loss of rent and a late fee for the months of July 2011 through October 2012.

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: October 17, 2012.

Residential Tenancy Branch