Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   OPR, MNR

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 for an Order of Possession based on unpaid rent and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 15, 2016, the landlord's agent "RJ" served the tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Section 83 of the *Act* determines that a document served in this manner is deemed to have been received 5 days after service. The Proof of Service form also establishes that the service was witnessed by "DJ" and a signature for "DJ" is included on the form.

Based on the written submissions of the landlord, and in accordance with sections 82 and 83 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on March 20, 2016, the fifth day after their registered 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 monetary compensation for unpaid rent pursuant to section 60 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;

- A copy of a manufactured home park tenancy agreement which was signed by the landlord's agent and the tenant on May 12, 2009, indicating a monthly rent of $315.00 due on the first day of the month for a tenancy commencing on May 01, 2009;

- A Monetary Order Worksheet showing the rent owing and paid during the portion of this tenancy in question, on which the landlord establishes a monetary claim in the amount of $1,747.00 for outstanding rent, comprised of the balance of unpaid rent owing for the period of September 2015 to March 2016. The landlord indicates that a partial payment of $550.00 was received on November 01, 2015;

- The landlord established the manner in which the rent was raised to the current amount of $371.00 by providing copies of "Notice of Rent Increase" forms provided to the tenant during the course of the tenancy;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated March 05, 2016, which the landlord states was served to the tenant on March 05, 2016, for $371.00 in unpaid rent due on March 01, 2016, with a stated effective vacancy date of March 15, 2016;

- A copy of the Proof of Service of the Notice showing that the landlord's agent "RJ" served the Notice to the tenant by way of posting it to the door of the rental unit at 3:00 PM on March 05, 2016. The Proof of Service form establishes that the service was witnessed by "DJ" and a signature for "DJ" is included on the form.

The Notice restates section 39(4) of the *Act* which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I have reviewed all documentary evidence provided by the landlord. Section 83 of the *Act* provides that because the Notice was served by posting the Notice to the door of the rental unit, the tenant is deemed to have received the Notice three days after its posting. In accordance with sections 81 and 83 of the *Act*, I find that the tenant is deemed to have received the Notice on March 08, 2016, three days after its posting.

I find that the tenant was obligated to pay monthly rent in the amount of $371.00, as established by the most recent Notice of Rent Increase form provided to the tenant. I accept the evidence before me that the tenant has failed to pay outstanding rental arrears in the amount of $1,747.00, comprised of the balance of unpaid rent owing for the period of September 2015 to March 2016. I find that the tenant received the Notice on March 08, 2016. I accept the landlord's undisputed evidence and find that the tenant

did not pay the rent owed in full within the 5 days granted under section 39 (4) of the *Act* and did not apply to dispute the Notice within that 5-day period.

Based on the foregoing, I find that the tenant is conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the Notice, March 18, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of $1,747.00, comprised of the balance of unpaid rent owing for the period of September 2015 to March 2016.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 60 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of $1,747.00, comprised of the balance of unpaid rent owing for the period of September 2015 to March 2016. 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 Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: March 21, 2016

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Residential Tenancy Branch