



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PARKBRIDGE LIFESTYLE COMMUNITIES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenants for the cost of the application.

An agent for the landlord attended the hearing and gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants joined the call. The landlord testified that the 2 tenants were individually served with the Landlord Application for Dispute Resolution and notice of this hearing by registered mail on September 16, 2017. The landlord has provided copies of a Canada Post cash register receipt bearing that date and 2 Registered Domestic Customer Receipts addressed to each of the tenants and I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Manufactured Home Park Tenancy Act*?
- Has the landlord established a monetary claim as against the tenants for unpaid rent?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically late fees for late payments of rent?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on July 1, 2013, and the tenants' manufactured home still occupies the manufactured home park site. Rent in the amount of \$443.83 per month is currently payable on the 1st day of each month. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that on May 11, 2017 the landlord's agent served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit. A copy of the first page only has been provided as evidence for this hearing, and the landlord's agent testified that the second page was on the flip-side of the first page which is what was served, and the landlord's agent only copied the first page for the landlord's records and for this hearing. It is dated May 8, 2017 and contains an effective date of vacancy of May 25, 2017 for unpaid rent in the amount of \$444.78 that was due on April 1, 2017.

The landlord has also provided a tenant ledger entitled "Transaction Listing" showing that as of September 1, 2017 the tenant owed the landlord \$913.61. Rent was usually paid by pre-authorized debits from the tenants' bank account, which was often returned for insufficient funds. Since September 1, 2017, October and November's rent cheques were returned for insufficient funds, however the tenant made a payment of \$475.00 on October 17, 2017 for which the landlord gave the tenants a receipt that specified that it was accepted for use and occupancy only.

The tenants have not served the landlord with an application for dispute resolution disputing the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The tenancy agreement also provides for late payment of rent fees of \$25.00 per late payment, and the landlord claims a total of \$1,376.27 in addition to the \$100.00 filing fee and an Order of Possession.

Analysis

The *Manufactured Home Park Tenancy Act* specifies that once served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent in full or dispute the notice by filing and serving the landlord with an application for dispute resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, I accept the undisputed testimony of the landlord's agent that the tenants were served with both pages of the 2-page notice on May 11, 2017 by posting it to the door of the rental unit, which is deemed to have been served 3 days later, or May 14, 2017. I also accept the undisputed testimony of the landlord's agent that the tenants have not served the landlord with an application for dispute resolution disputing the notice, and I have no such application before me.

I have reviewed the tenancy agreement which provides for late fees of \$25.00. I have also reviewed the Transaction Listing provided by the landlord, and I am satisfied that the tenants were in arrears of rent the sum of \$444.78 that was due on April 1, 2017 including late fees, and the tenants did not pay the rent in full within 5 days of deemed service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

Therefore, I find that the tenants are conclusively presumed to have accepted the end of the tenancy, and the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenants.

I also find that the landlord has established a claim of unpaid rent and late fees totaling \$1,376.27. Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenants.

I further grant a monetary order in favour of the landlord as against the tenants pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$1,476.27.

This order is final and binding and may be enforced.

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 16, 2017

Residential Tenancy Branch