



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 3, 2017, the landlords personally served the tenant the Notice of Direct Request Proceeding. The landlords had the tenant and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlords and in accordance with section 82 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on November 3, 2017, the day it was personally served to them.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 39 and 48 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 60 of the *Act*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 65 of the *Act*?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of a manufactured home park tenancy agreement which was signed by the landlords' agent and the tenant on April 4, 2012, indicating a monthly rent of

\$300.00, due on the first day of each month for a tenancy commencing on May 1, 2012;

- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 1, 2017, with a stated effective vacancy date of October 18, 2017, for \$360 in unpaid rent for August 2017 ; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 1, 2017, with a stated effective vacancy date of October 18, 2017, for \$360.00 in unpaid rent for September 2017.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notices were personally handed to the tenant at 4:45 pm on October 2, 2017. The 10 Day Notices state 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.

Analysis

I have reviewed all documentary evidence and in accordance with section 81 of the *Act*, I find that the tenant was duly served with the 10 Day Notices on October 2, 2017.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 39(4) of the *Act* and did not dispute the 10 Day Notices 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 effective date of the 10 Day Notices, October 18, 2017.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent owing as of October 25, 2017.

I note that the amount of rent on the tenancy agreement does not match the amount of rent being claimed on the 10 Day Notices. If there has been a rent increase, the appropriate Notice of Rent Increase forms must be submitted with the Application for Dispute Resolution to substantiate the claim for the increased rent; or the Monetary Order Worksheet must clearly show any additional months for which the tenant still owes rent.

For this reason, the landlords' application for a Monetary Order for unpaid rent is dismissed with leave to reapply.

As the landlords were partially successful in this application, I find that the landlords are entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the tenant 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 landlords are entitled to a Monetary Order in the amount of \$100.00 for the recovery of the filing fee for this application. The landlords are 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.

I dismiss the landlords' application for a Monetary Order for unpaid rent with 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: November 06, 2017

Residential Tenancy Branch