



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OLC

Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by registered mail that was mailed in July the 15th 2009 but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request to have an order for the landlord to comply with the Manufactured Home Park Tenancy Act.

Background and Evidence

The applicant testified that:

- She sent her rent checks to the landlord by registered mail however the landlord refuses to accept the register letter and it has been returned to her.
- She does not have quiet enjoyment of the rental property because the landlords enter your property whenever they wish without giving the proper notice and the landlords have threatened to evict her whenever she stands up for her rights.

The applicant is therefore requesting an order that the landlord comply with the Manufactured Home Park Tenancy Act.

Analysis

The tenant has shown that she has sent rent cheques for the months of August 2009 to December 2009, to the landlord by registered mail and that mail has been refused.

It is my decision that the landlord does not have the right to refuse rent and if the landlord chooses to do so, then the landlord cannot give a Notice to End Tenancy for failure to pay the rent.

The applicant testified that landlord has threatened to evict her on more than one occasion, claiming that she is a troublemaker because she stands up for herself. The landlord was not present at the hearing to respond to this claim; however section 87(2) of the Manufactured Home Park Tenancy Act states:

87(2) A person who coerces, threatens, intimidates or harasses a tenant or landlord

(a) in order to deter the tenant or landlord from making an application under this Act, or

(b) in retaliation for seeking or obtaining a remedy under this Act

commits an offence and is liable on conviction to a fine of not more than \$5 000.

Sections 22 and 23 of the Manufactured Home Park Tenancy Act states:

Protection of tenant's right to quiet enjoyment

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22 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the manufactured home site subject only to the landlord's right to enter the manufactured home site in accordance with section 23 *[landlord's right to enter manufactured home site restricted]*;
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Landlord's right to enter manufactured home site restricted

23 A landlord must not enter a manufactured home site that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord has an order of the director authorizing the entry;

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- (d) the tenant has abandoned the site;
- (e) an emergency exists and the entry is necessary to protect life or property;
- (f) the entry is for the purpose of collecting rent or giving or serving a document that under this Act must be given or served.

Based solely on the evidence and testimony provided by the applicant it would appear that the landlord has failed to comply with the Manufactured Home Park Tenancy Act and has interfered with the tenant's right to quiet enjoyment and exclusive possession of the manufactured home pad.

Conclusion

I have issued an order for the respondent to comply with the Manufactured Home Park Tenancy Act.

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

Dated: August 31, 2009.

Dispute Resolution Officer