

## **DECISION**

**Dispute Codes**      OLC

### **Introduction**

The tenants have filed this application seeking an Order that the landlord comply with the Act and seeking recovery of the filing fee paid for this application.

### **Background and Evidence**

The applicants testified that they are seeking to have the respondent comply with the Residential Tenancy Act. The applicants say that the rental property is a mobile home in a mobile home park located on native land.

The respondent submits the “Rules and Regulations” of Creek Run Manufactured Home Park. The respondent testified that she has had complaints respecting the conduct of the tenants to whom these owners rent their mobile home which is the subject of this dispute. The respondent testified that no formal notices have been sent and there are no steps being taken to evict the applicants or their tenants.

### **Analysis**

In their application the applicants seek an Order that the landlord comply with the *Residential Tenancy Act*.

Section 2 of the *Manufactured Home Park Tenancy Act* sets out what it applies to:

- 2 (1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, manufactured home sites and manufactured home parks.
- (2) Except as otherwise provided in this Act, this Act applies to a tenancy agreement entered into before or after the date this Act comes into force.

Section 4 sets out what the *Manufactured Home Park Tenancy Act* does not apply to:

4 This Act does not apply with respect to any of the following:

- (a) a tenancy agreement under which a manufactured home site and a manufactured home are both rented to the same tenant;
- (b) prescribed tenancy agreements, manufactured home sites or manufactured home parks.

The applicants are owners of the subject mobile home and they rent the pad from the Mobile Home Park. The applicants are therefore not tenants under the *Residential Tenancy Act* but tenants under the *Manufactured Home Park Tenancy Act*. As such I am therefore unable to order the respondent to comply with the *Residential Tenancy Act*.

If the applicants have made an error in the details of their dispute in which they state they are seeking to have the respondent to comply with the *Residential Tenancy Act* and they actually meant to seek to have the respondent to comply with the *Manufactured Home Park Tenancy Act*, I find insufficient evidence to show that the respondent is not complying with the *Manufactured Home Park Tenancy Act* such that the respondent should be compelled to do so. If the respondent is receiving complaints regarding goings on at the subject mobile home then the respondent must notify the owners of the property and seek a resolution to any problems. Insufficient evidence has been submitted to show that the respondent has been harassing the applicants, only that they have been advising them of the complaints.

The applicants did say that the respondent threatened to shut off the hydro at the mobile home. While the respondent denies this, in the event there is any misunderstanding with respect to this matter, I direct the parties' attention to Section 21 of the *Manufactured Home Park Tenancy Act* which says:

**Terminating or restricting services or facilities**

- 21** (1) A landlord must not terminate or restrict a service or facility if
- (a) the service or facility is essential to the tenant's use of the manufactured home site as a site for a manufactured home, or
  - (b) providing the service or facility is a material term of the tenancy agreement.
- (2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord
- (a) gives 30 days' written notice, in the approved form, of the termination or restriction, and
  - (b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

In their submission the applicants state that they "...would like to use the rules outlined in the Resident Tenancy Act" however, as set out above, this matter rightly comes under the *Manufactured Home Park Tenancy Act* and, with respect to Rules, I direct the parties' attention to Section 32 of the *Manufactured Home Park Tenancy Act* that deals with Park rules:

### **Park rules**

- 32** (1) In accordance with the regulations, a park committee, or, if there is no park committee, the landlord may establish, change or repeal rules for governing the operation of the manufactured home park.
- (2) Rules referred to in subsection (1) must not be inconsistent with this Act or the regulations or any other enactment that applies to a manufactured home park.
- (3) Rules established in accordance with this section apply in the manufactured home park of the park committee or landlord, as applicable.
- (4) If a park rule established under this section is inconsistent or conflicts with a term in a tenancy agreement that was entered into before the rule

was established, the park rule prevails to the extent of the inconsistency or conflict.

### Conclusion

This application is dismissed.