

## **DECISION**

Dispute Codes      O & FF

### Introduction

This application dealt with the tenant's request to Order the landlord to allow him to park his work vehicle within the mobile home park. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence to me.

### Issues(s) to be Decided

Does the landlord have the right under the rules of the mobile home park to deny the tenant the right to park his work vehicle within the mobile home park?

### Background and Evidence

The parties entered into a tenancy agreement for a mobile home site effective March 15, 2007. The current monthly rent for the site is \$394.80. When the tenant began renting a mobile home site he signed and agreed to abide by the mobile home park rules.

Neither the tenant nor the landlord provided a copy of the mobile home park rules as evidence for this hearing.

The tenant is seeking an order allowing him to return his work vehicle back into the mobile home park. The tenant described an arrangement he had with his neighbour allowing him to park his work vehicle in her parking space. The tenant states that this arrangement worked well, independently of the landlord, for approximately 3 years.

From the tenant's perspective the landlord suddenly, and unreasonably, decided that this arrangement was in breach of the mobile home park rules. The landlord issued the tenant's neighbour a one month Notice to End Tenancy for Cause. As a result of this action the tenant has removed his vehicle from the mobile home park. The tenant stated that this is very inconvenient as he is often required to use his work vehicle during the

night when he is on call and must now travel outside of the park to gain access to his work vehicle.

The tenant submits that his work vehicle is not unlicensed, not in disrepair and there are no grounds for the landlord to deny him the right to park this vehicle in his neighbour's parking spot. The tenant cannot park his work vehicle in his parking area because he already has two vehicles.

It is the landlord's position that only two passenger vehicles are allowed per mobile home site and that the rule precludes commercial vehicles. When I asked the landlord to read what the actual rule states, there was no mention of commercial vehicles. The landlord interprets passenger vehicles to exclude commercial vehicles and submits that the tenant's work van is a commercial vehicle. The landlord also raised item 22 of the rules which preclude tenants from operating a business in their mobile homes and prohibits tenants from hanging commercial signs. The landlord submits that the tenant's work vehicle has business logos and the landlord submits that because of these logos the tenant is breaching this rule as well.

The tenant rejects the landlord's position. The tenant stated that there is no definition of passenger vehicle and his work van can carry passengers. The tenant also rejects the landlord's position that he is in breach of rule 22. The tenant pointed out that he is not operating or conducting a commercial business, rather when he has completed work he is parking the vehicle in the mobile park on week nights and weekends.

The tenant submits that he believes the landlord is interpreting the rules differently now to disrupt his agreement to park his work vehicle at his neighbour's mobile home site. The tenant does not understand why the landlord is taking this position and feels that he is being bullied. The tenant again raised the points that he has been parking there for approximately 3 years without any complaints from neighbours or the landlord.

The tenant seeks permission to continue parking his work vehicle in the mobile home park.

### Analysis

Part 4 of the *Manufactured Home Park Tenancy Regulation* deal with parks rules in a manufactured home park. Sections 29, 30 and 31 of the regulation set out how a landlord or park committee can establish, change or repeal park rules and also set out when a rule is not enforceable against tenants.

Specifically, in order for a rule to be enforced, varied or changed the rule must promote the convenience and safety of the tenants, protect and preserve the condition of the manufactured home park, fairly regulate access to and distribution of services and control pets in common areas.

A rule cannot be varied, changed or enforced against tenants if it is not applied fairly to all tenants, it is not understandable or too vague, and it has not been given to the tenant and changes a material term of the original tenancy agreement.

In the circumstances before me the landlord is not changing a park rule but attempting to enforce it in a manner which it was not previously enforced. I accept the tenant's evidence that he was able to park his work vehicle at his neighbour's mobile home site for several years without complaint or any issue from the landlord.

The landlord did not provide any explanation as to why they now believe that the tenant is breaching items 17 and 22 of the mobile home park rules. I accept the oral reproduction of items 17 and 22 of the rules submitted by the landlord at the hearing. I accept that item 17 limits the number of vehicles at each mobile home site to 2. I accept that the rule discusses passenger vehicles. I accept that the park rule does not define passenger vehicles or commercial vehicles.

The landlord interprets passenger vehicles, as stated in the rule, to exclude vehicles which are commercial in nature. The landlord also argues that item 22 in the rules excludes commercial vehicles as the rule prohibits tenants from operating a commercial business in the mobile home park.

The landlord is required to provide rules which are clear and understandable by most people. I find, the absence of a definition of 'passenger vehicle' that the landlord's position cannot be supported by the vague reference to passenger vehicles in item 17 of the rules. The rule referenced by the landlord fails to specifically exclude vehicles used by tenants which also function as work vehicles and makes no reference or distinction regarding commercial vehicles.

The landlord has failed to provide any compelling reason why this vehicle should be excluded from the park. I am satisfied that the tenant's work vehicle is a motor vehicle and that it meets the vague reference to passenger vehicles as described in item 17 of this mobile home park rules. I find that there are no grounds to preclude the tenant from making a private agreement with his neighbour to park his vehicle in the neighbour's designated parking.

I also reject the landlord's argument that item 22 of the rules applies to a vehicle which is solely being used for transportation by the tenant to and from his residence. It is clear that the tenant is not operating a commercial business by driving to and from the mobile home park and by parking his work vehicle at the mobile home park.

The landlord is encouraged to consider improving the current mobile home park rules by providing definitions and providing clarification of what, if any, vehicles are not permitted. The landlord is required to follow the *Act* and regulations when making any changes to the mobile home park rules.

I grant the tenant's application and Order that the tenant may park his work vehicle in the mobile home park as long as it is in compliance with item 17 of the rules of this mobile home park.

The tenant has also requested compensation for the sum of \$200.00 related to lost time from work to file this application for Dispute Resolution and to recover the \$50.00 filing fee for this application from the landlord.

Section 72 provides that the director may order one party of a dispute to repay the filing fee for an application for Dispute Resolution to another party of the dispute. This is the only reimbursement for pursuing a dispute contemplated by the *Act*. Therefore, I reject the tenant's claim for \$200.00 due to lost wages but I grant the tenant's request that the landlord reimburse the tenant the \$50.00 filing fee paid for this application. The tenant may deduct the sum of \$50.00 from his next month's site rent in satisfaction of this Order.

Conclusion

I have granted the tenant's application. I have determined that the landlord has no grounds under items 17 or 22 of this mobile home park rules or the *Act* to exclude the tenant from parking a work vehicle at the mobile home park. I made this determination on the basis that the rule relied upon by the landlord does not exclude work vehicles and fails to define passenger or commercial vehicles.

I also Order that the tenant may deduct **\$50.00** from his next month's rent to recover the filing fee paid for this application for Dispute Resolution.

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: October 22, 2010.

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Dispute Resolution Officer