



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OLC, FF, O

Introduction

This matter dealt with an application by the tenants to obtain an Order for the landlord to comply with the *Manufactured Home Park Tenancy Act (Act)*, regulation or tenancy agreement and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with s. 82 of the *Act*. They were given to the landlords' agent in person on October 05, 2010. The male tenant gave sworn testimony that service of these documents took place as declared. I find that the landlord was properly served pursuant to s. 82 of the *Act* with notice of this hearing and the hearing proceeded in the landlords' absence.

Both parties were provided the opportunity to present evidence and make submissions. As the landlord did not appear the submissions were made by the tenant attending. On the basis of the evidence presented at the hearing, a decision has been reached.

Issues(s) to be Decided

- Are the tenants entitled to an Order for the landlord to comply with the *Act*, Regulations or tenancy agreement?

Background and Evidence

The tenant attending testifies that their month to month tenancy started on September 15, 2003. The pay a pad rent of \$406.00 per month which is due on the first of each month.

The tenant states that approximately three months ago a new tenant moved into the trailer next door and parked his recreational vehicle (R.V.) on the area between their trailers. The tenant states he contacted the landlords' agent about this matter as section 16 of the signed



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

agreement between them named Guidelines For Living state that no R.V.'s, trailers, campers, boats, unlicensed vehicles etc. may be parked or stored at the home site. R.V.'s may be parked for loading or unloading only. The tenant states the landlords' agent returned his call to say he was out of the area but would deal with it when he returned. The tenant states a month went by but the landlords' agent still did not deal with this breach of the rules. The tenant states he spoke to the landlords' agent again and asked him to have this R.V. removed and states the landlords' agent refused to deal with the matter.

The tenant states the landlord is not enforcing his own rules and there is no park committee to appeal to. The tenants feel the landlord has had sufficient time to deal with this matter and now seek an Order for the landlord to comply with the rules in their tenancy agreement and have this R.V. removed from between the trailers.

Analysis

The landlord did not appear at the hearing to dispute the tenants claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have considered the evidence before me, including the affirmed evidence of the tenant. S. 55(3) of the *Act* allows me to make an Order necessary to give effect to the rights, obligations and prohibitions under this *Act*, including an Order that the landlord or tenant comply with the *Act*, regulations or tenancy agreement. Therefore it is my decision that according to the agreement signed by the tenants and landlord on August 10, 2003, there is a section of that agreement which gives rules about the storage of R.V.'s and states that they must not be parked or stored at the home site. The landlord has clearly not complied with his rule in this matter and allowed another tenant to park his R.V. in the space between the two trailers.

It is landlords' responsibility to enforce his own rules for the park and despite having been asked by the tenants to comply with this rule the landlord has failed to do so. Consequently,



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

I find the tenants are entitled to an Order for the landlord to comply with rule 16 in the signed agreement named Guidelines for living and I Order the landlord to comply with this rule and have the R.V. removed from the space between the trailers pursuant to s. 55(3) of the *Act*.

As the tenants have been successful with their claim I find they are entitled to recover the **\$50.00** filing fee from the landlord for this proceeding and may deduct that amount from their next rent payment when it is due and payable to the landlord pursuant to s. 65(1) of the *Act*.

Conclusion

The tenant's application for an Order for the landlord to comply with the *Act*, regulation or tenancy agreement is upheld. An Order has been issued for the landlord to have the trailer, stored or parked between the two trailers, removed within seven days of receiving this decision.

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: November 03, 2010.

Dispute Resolution Officer