

## **DECISION**

Dispute Codes      O, FF

### Introduction

This hearing dealt with an application by the landlord for an order to have the tenant comply with the pet rules per the signed park rules agreement. Both parties participated in the conference call hearing.

### Issues to be Decided

Is the landlord entitled to any of the above under the Act.

### Summary of Background and Evidence

This tenancy started May 1, 2006 with pad rent of \$454.00.

The landlord's agent testified that the tenant is not in compliance with the park pet rules on the signed tenancy agreement. The tenancy agreement reflects that there is a maximum of 1 dog or cat allowed and that the animal cannot be over 12" in height when fully grown. The landlord stated that the tenants have brought in a dog which is a yellow Labrador Retriever cross and that this pet exceeds the 12" height restriction.

The landlord's agent stated that she knew of 4 other dogs in the park that were over 12" in height and that some of them belonged to long term residents. The landlord's agent has been on site since 2007 and could not confirm when these 4 dogs had been brought to the park. The landlord's agent stated that the tenants did not come to the park office to show them the dog and verify it's potential size prior to bringing it on site.

The park rules section 5 Pets notes: a maximum of 1 dog or cat per site. Pet size is restricted to under 12 inches in height when full grown.

The tenants testified that prior to getting the dog the tenants had two cats which are no longer on site and the landlord had signed off on them having the two pets. The tenants stated that there are 4 other dogs in the park that exceed the 12" height limit; these dogs reside at units 50/43, 116, 103 and 22. The tenants also stated that unit 33 has 2 small dogs and unit 116 has a minimum of 3 small dogs and that the majority of these dogs were brought to the park after May 1, 2006. The tenants feel that the park pet rules are not being equally applied to all residents.

### Analysis

#### Manufactured Home Park Tenancy Regulation **Section 30 speaks to Making Park Rules**

(3) A rule established, or the effect of a change or repeal of a rule changed or repealed, pursuant to subsection (1) is enforceable against a tenant only if

- (a) **the rule applies to all tenants in a fair manner,**
- (b) the rule is clear enough that a reasonable tenant can understand how to comply with the rule,
- (c) notice of the rule is given to the tenant in accordance with section 29 [disclosure], and
- (d) the rule does not change a material term of the tenancy agreement.

There are currently 4 dogs over 12" in height, excluding the tenants dog, residing in the park and 2 residents with 2 or more dogs residing in the park and none of these tenants been given direction by the landlord to comply with the section 5 Pet park rules.

Based on the documentary evidence and testimony I find that the landlord is not entitled to an order for the tenants to comply with the park rules regarding pets as the park rules are not being enforced in a fair manner on all tenants. The tenants dog may remain on the site and the tenants are hereby not ordered to remove the dog.

The landlord's application is dismissed without leave to reapply.

The landlord is not entitled to recovery of the \$50.00 filing fee.

### Conclusion

The landlord's application is dismissed without leave to reapply.

The tenant's dog may remain on the site and the tenants are hereby not ordered to remove the dog.

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: December 30, 2010

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Dispute Resolution Officer