



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes AAT, AS, CNC, CNE, CNL, FF, MNDC, O, OPT

Introduction

This hearing was scheduled to hear a tenant's application for: access to the site for the tenant or the tenant's guests; permission to assign or sublet the site; to cancel Notices to End Tenancy for cause, end of employment and landlord's use of property; monetary compensation for damage or loss under the Act, regulations or tenancy agreement; an Order of Possession for the tenant; recovery of the filing fee paid for this application and other issues.

The applicant named two respondents with this application. One of the respondents is herein referred to as the "park operator" and the other respondent is referred to as the "park manager". The park manager appeared at the hearing and confirmed that he was appearing on behalf of both named respondents. The applicant appeared at the hearing approximately eight minutes after the hearing commenced. Testimony commenced after the applicant appeared. Both the applicant and the park manager testified that they are legally married to each other and are currently separated.

The respondent raised a preliminary matter pertaining to jurisdiction. The respondent claimed that the property was not a manufactured home park to which the Act applied. The respondent submitted that the property is zoned and run as a campground and recreational vehicle (RV) park. Occupants use the property under a license to occupy and not a tenancy agreement. All of the trailers or RVs are towable and not affixed to the land. Further, the respondent submitted that tax is collected on park fees and receipts are given for payment. Park fees are determined on a daily basis although

there are fees set for extended stays. The respondent did not supply documentary evidence in support of this position.

The applicant submitted that many residents of the park have occupied their sites for several years and that many trailers have additions which are not moveable. The applicant acknowledged that no written tenancy agreements are provided to tenants by the respondents but submitted the Act still applies. The applicant refuted the respondent's claim that tax is collected on park fees. It was clear the applicant had not anticipated the respondent's position with respect to jurisdiction before the hearing and had not provided documentary or photographic evidence to contradict the respondent's position.

Both parties agreed that the park is located on "Indian Lands". I referred the parties to policy guideline 27 which provides that provincial legislation cannot affect use of occupation of Indian Lands because that power belongs to the federal government. However, I also heard that the park operator is non-native. I was not provided evidence pertaining to the operating agreement for the lands. I cautioned the applicant that I may not have jurisdiction to resolve this dispute but that I would reserve my decision on that matter. I proceeded to ask the applicant about the nature of her monetary claims against the respondents.

Through the applicant's testimony it was clear that the applicant's claims include matters that do not fall under the Act, such as claims related to employment, contract for services, and matrimonial law since the park manager is also the applicant's husband.

From the applicant's details of dispute and evidence submitted before this hearing, I find the application did not sufficiently disclosed full particulars of a dispute that may be determined under this Act as required under section 52(2)(b) of the Act. Section 52(5) provides that:

- (a) the Director may refuse to accept an application for dispute resolution if in the director's opinion, the application does not disclose a dispute that may be determined under this Part.

In accordance with the authority afforded me under section 52(5)(a) of the Act I refuse to accept this application for dispute resolution. The applicant is at liberty to make another application and provide full particulars of a dispute that may be determined under this Act. Both parties are encouraged to contact the Residential Tenancy Branch for further assistance in making an application or responding to an application served upon them.

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 24, 2010.

Dispute Resolution Officer