



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, PSF, LRE, FF

Introduction

This hearing dealt with an application by the tenant for an order to have the landlord comply with the act, order the landlord to provide services or facilities, suspend or set conditions on the landlord's right to enter and recovery the filing fee.

The tenants participated in the conference call hearing but the landlord did not. The tenant presented evidence that the landlord was served with the application for dispute resolution and notice of hearing by registered mail. I found that the landlord had been properly served with notice of the tenant's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Are the tenants entitled to any of the above under the Act.

Background and Evidence

This tenancy began February 2, 2010 and the tenants pay monthly pad rent of \$350.00.

The tenants testified that the landlord did not pick up the hearing documents that had been sent registered mail and that the mail had been returned to them.

The tenants testified that they have not been provided with a tenancy agreement, they have not been provided with a signed copy of the park rules, they have not been provided with a site plan for their modular home and that they were to have two parking stalls however the landlord will not provide them with the information the second parking stall.

The tenants stated that the front area of the modular homes in the park have a location to park a second vehicle however this area in front of the tenant's home is inaccessible as the cable, phone and hydro boxes are there and cannot be parked on. The tenants stated that they were to have a second parking spot as a condition of the purchase of their modular home but that the landlord was refusing to provide a second parking spot.

The tenants stated that they have repeatedly attempted to contact the landlord and get their issues resolved however the landlord is unresponsive. The tenants also stated that when they do attempt to address issues with the landlord he threatens them with eviction.

The tenants stated that the park is also to have paved roadways, street lights, garbage and recycling removal and that the landlord has not provided any of these services or facilities. The tenants stated that these services and facilities were listed on both the ads for the park and the real estate listings.

The tenants in this application are seeking an order for the landlord to comply with the Act and regulations and provide the tenants with:

- A proper tenancy agreement, signed
- A signed copy of the park rules
- A site map showing the boundaries of the tenant's manufactured home site
- Two designated parking stalls
- Completion of the park amenities that include paved roads, street lights, garbage and recycling.

Analysis

Based on the documentary evidence and testimony I find on a balance of probabilities that the tenants have met the burden of proving that they have grounds for an Order for the landlord to comply with the Manufactured Home Park Tenancy Act and Regulations.

The Act and Regulations clearly define the basic requirements of a landlord in regards to what is required in a tenancy and section 5 of the Act plainly states:

This Act cannot be avoided

(1) Landlords and tenants may not avoid or contract out of this Act or the regulations.

(2) Any attempt to avoid or contract out of this Act or the regulations is of no effect.

I therefore Order that the landlord:

- Provide the tenants with a signed Tenancy Agreement that complies with the Act no later than October 31, 2011.
- Provide the tenants with a signed copy of the Park Rules no later than October 31, 2011.
- Provide the tenants with a site map showing the boundaries of the tenants manufactured home site no later than October 31, 2011.

Manufactured Home Park Tenancy Act section 13 **Requirements for tenancy agreements**

- (1) A landlord must prepare in writing every tenancy agreement entered into on or after January 1, 2004.
- (2) A tenancy agreement must comply with any requirements prescribed in the regulations and must set out all of the following:
 - (a) the standard terms;
 - (b) the correct legal names of the landlord and tenant;
 - (c) the address of the manufactured home site;
 - (d) the date the tenancy agreement is entered into;
 - (e) the address for service and telephone number of the landlord or the landlord's agent;
 - (f) the agreed terms in respect of the following:
 - (i) the date on which the tenancy starts;
 - (ii) if the tenancy is a periodic tenancy, whether it is on a monthly or other periodic basis;
 - (iii) if the tenancy is a fixed term tenancy,
 - (A) the date the tenancy ends, and
 - (B) whether the tenancy may continue as a periodic tenancy or for another fixed term after that date or whether the tenant must vacate the manufactured home site on that date;
 - (iv) the amount of rent payable for a specified period;
 - (v) the day in the month, or in the other period on which the tenancy is based, on which the rent is due;
 - (vi) which services and facilities are included in the rent;
 - (g) if a park committee or the landlord has established park rules in accordance with section 32 *[park rules]* for the manufactured home park, the park rules.
- (3) Within 21 days after a landlord and tenant enter into a tenancy agreement, the landlord must give the tenant a copy of the agreement.

Manufactured Home Park Tenancy Regulations section 12 Terms that must be included in a tenancy agreement

- (1) *A landlord must ensure that a tenancy agreement contains*
 - (a) the standard terms, and*
 - (b) the boundaries of the manufactured home site measured from a fixed point of reference.*

In regards to the issue of the tenants having two designated parking spaces, I do not find that the tenants have met the burden of proving that two parking spaces were designated and included in the purchase of their modular home. However as the landlord has not provided the tenants with a site plan showing the boundaries of the tenant's property and designated parking, it is impossible to determine if in fact the site allows for two parking spaces. Therefore this portion of the tenant's application is dismissed with leave to reapply.

Therefore until such time as a site plan is provided to the tenants and the matter of the parking spaces resolved, I Order that the landlord remove the boulder at the side of the

tenants property by October 15, 2011 and that the tenants be allowed to use this area for parking until the landlord proves otherwise.

In regards to the issue of the amenities that the tenants are seeking, I do not find that the tenants have met the burden of proving that these amenities are part of the tenancy agreement as there is no documentation that reflects the landlord's commitment to pave the roads, install street lighting or provide garbage and recycling removal. Therefore this portion of the tenant's application is dismissed with leave to reapply.

While the tenants have not sought a rent reduction in this application, should the landlord not comply with the Orders issued in this decision the tenants are at liberty to make a future application for a rent reduction.

As the tenants have been successful in their application they are entitled to recovery of the \$50.00 filing fee.

Conclusion

I Order that the landlord is to remove the boulder at the side of the tenants property by October 15, 2011.

I Order that the landlord provide the tenants with a signed Tenancy Agreement that complies with the Act no later than October 31, 2011.

I Order that the landlord provide the tenants with a signed copy of the Park Rules no later than October 31, 2011.

I Order that the landlord provide the tenants with a site map showing the boundaries of the tenants manufactured home site no later than October 31, 2011.

The tenants are entitled to recovery of the \$50.00 filing fee and this amount may be deducted from future rent owed to the landlord.

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: September 30, 2011.

Residential Tenancy Branch