



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened on an application by the tenant seeking a Monetary Order \$479.50 for return of General Sales Tax/Harmonized Sales Tax paid to the landlord from September 10, 2007 to October 31, 2010 for transmittal to the Canada Revenue Agency.

As a preliminary matter, the applicant tenant had named two principals of the corporate landlord as respondents. With consent of both parties, I have amended the style of cause to add the name of the corporation to the list of respondents.

Issue(s) to be Decided

Is the applicant tenant entitled to a Monetary Order against the landlord for return of the General Sales Tax and Harmonized Sales Tax?

Background and Evidence

This tenancy ran from September 10, 2007 to October 31, 2010. The rental unit was for a pad in a recreational vehicle park and campground.

During the hearing, the parties concurred that the landlord had collected \$479.50 in general and harmonized sales taxes over the course of the tenancy as verified by copies of the tenant's ledger submitted into evidence.

However, the landlord stated that had been instructed by the Canada Revenue Agency that the rental unit in question was subject to the taxes in question and that he had collected and remitted all such taxes to the agency.

The landlord submitted into evidence a copy of a letter dated August 31, 2011 from the federal tax office in Surrey BC to the operator of a similar park and campground advising that such operations were subject to the tax, although I note the circumstances may not be identical to those set out in the present claim.

The landlord further stated that the tenant had been advised that, if she believed the rental unit was not subject to such taxation, the appropriate remedy was to apply to the Canada Revenue Agency for a rebate,

Analysis

I accept the evidence of the landlord that the tax was collected in good faith to comply with federal legislation and that he remitted it to the appropriate agency. If the landlord was in error, the appropriate remedy is available for the tenant to apply to the agency for a rebate on their form specifically designed for that purpose.

As this matter falls under superior legislation and must be adjudicated under that legislation, I dismiss this application without leave to reapply.

Conclusion

The application is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: January 18, 2013

Residential Tenancy Branch

