



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Aloha Manufactured Homes Park
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC, O

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Further is my decision that I have removed the person named as a respondent whose initials are L.P. as he is not a landlord or landlord's agent, and it is not even his correct name.

Further both the landlord's agent and the tenant agreed that the dispute address for this rental unit is A-9 not A-8, and both sides agreed to an amendment to correct that. I have therefore amended the address on the application.

Issue(s) to be Decided

At issue is whether or not the landlord has taken away some of the property that was initially rented to the tenant, and whether compensation is justified.

Background and Evidence

The applicant testified that:

- When he initially rented this pad the landlord's agent told him that he would have the full use of the property between his trailer and the adjoining trailer, except that there was a 3 foot access strip for the owners of the adjoining trailer.
- Subsequently the tenant next door abandoned the trailer, and the Park manager took over the site.
- After taking over the site the Park manager erected a fence 5 feet from the adjoining trailer, and therefore is encroaching on the property he has been paying rent on.
- He is therefore requesting \$1100.00 compensation for loss of rental property from his rental pad.
- He is also requesting \$500.00 to cover his time and expenses for preparing for today's hearing.

The landlord's agent testified that:

- She completely denies ever telling the tenant that he could have the complete use of the rental property between his unit and the adjoining unit, and also denies ever stating that there was a 3 ft access strip.
- The mobile home Park bylaw in the area actually requires that there be at least 5 feet between any mobile home and the boundary line between trailers and therefore when they took over this adjoining trailer they put the fence up on the boundary line.
- She does admit that she never did tell the tenant exactly where the boundary line was, however she also insists that the tenant was never told that it was a 3 foot strip.
- It may have been the person who sold the tenant the trailer and set the trailer up for him that told him that he had access to the full area other than a 3 foot strip, but it certainly wasn't her.
- Further the person who sold him the trailer and set the trailer up was well aware of the 5 foot requirement, and in fact he was the person that gave her a copy of the bylaw showing the requirement for 5 ft side yard.
- She therefore asks the tenant's application for compensation be dismissed in full.

Analysis

It's my finding that the applicant has not met the burden of proving his claim against the landlord.

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

In this case it is just the applicant's word against that of the respondent and the respondent denies ever telling the tenant that he had access to the full space between his trailer and the adjoining trailer other than a 3 foot access strip.

The only evidence the applicant has supplied in support of his claim is an unsworn e-mail from the person from whom he purchased the trailer, and it's my finding that that unsworn e-mail has little evidentiary value.

Therefore since there was nothing put in writing when the tenancy was entered into, and since we have a disagreement as to the distance of the side yard, I must look to any bylaws that are in place, and in this case the bylaw is very clear that the distance required for a side yard, is 5 feet.

Therefore it's my finding that the fence has been erected between these mobile homes has been erected on the correct boundary line and I will not issue an order for any compensation to the applicant, nor will I order the removal of any fencing materials or trees.

Conclusion

This application is dismissed in full 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: April 29, 2013

Residential Tenancy Branch

