



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Figueira's MH Park
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: O, FF

Introduction

This hearing was scheduled in response to an application by the tenants for “other,” in addition to recovery of the filing fee. Both parties attended and / or were represented and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the tenancy began on June 1, 2012. Monthly pad rent is presently \$511.00.

Subsequent to the start of tenancy, the tenants purchased a golf cart for use within the manufactured home park (the “park”). The landlord claims that prior to the start of tenancy, the tenants neither sought permission nor advised him or his assistant of their desire or intention to operate a golf cart within the park. For reasons mainly related to safety, the landlord asked the tenants not to operate the golf cart within the park. Later, and more formally by letters dated July 19 and August 28, 2012 the landlord requested and then instructed the tenants not to operate the golf cart within the park. However, the tenants object to the landlord’s position and as a result they have filed an application for dispute resolution. A 1 month notice to end tenancy for cause in relation to this particular matter has not presently been issued.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 6 of the Act speaks to **Enforcing rights and obligations of landlords and tenants**, as follows:

6(1) The rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement.

(2) A landlord or tenant may make an application for dispute resolution if the landlord and tenant cannot resolve a dispute referred to in section 58(1) *[determining disputes]*.

(3) A term of a tenancy agreement is not enforceable if

- (a) the term is inconsistent with this Act or the regulations,
- (b) the term is unconscionable, or
- (c) the term is not expressed in a manner that clearly communicates the rights and obligations under it.

Section 40 of the Act speaks to **Landlord's notice: cause**. As previously noted, there is presently no evidence of a notice to end tenancy for cause having been issued by the landlord in relation to the issue of the golf cart. In the event that such notice is issued, either party would have the option of applying for dispute resolution.

Section 51 of the Act speaks to **Determining disputes**, and provides in part as follows:

58(1) Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:

- (a) rights, obligations and prohibitions under this Act;
- (b) rights and obligations under the terms of a tenancy agreement that
 - (i) are required or prohibited under this Act, or
 - (ii) relate to
 - (A) the tenant's use, occupation or maintenance of the manufactured home site, or
 - (B) the use of common areas or services or facilities.

In the event that a notice to end tenancy is issued and applications are subsequently made for dispute resolution, a hearing would be scheduled. Based on the documentary evidence and testimony, and the applicable legislative provisions and Guidelines, the Arbitrator would make findings by way of a formal, written decision.

For information, the attention of the parties is drawn to additional statutory provisions:

The Manufactured Home Park Tenancy Act:

Section 31: **Establishment of park committee**

Section 32: **Park rules**

Section 33: **Park committee role in dispute resolution**

The Manufactured Home Park Regulation:

Part 3 – Park Committees (sections 13 to 28)

Part 4 – Park Rules (sections 29 to 31)

Conclusion

No action has presently been taken by the landlord which would lead me to make findings in this dispute pursuant to the legislation. In the meantime, the parties have the option of further exploring directly between them whether a mutually agreeable resolution may be achieved. In the result, this decision is limited to providing a summary of the broad dispute, and referring the parties to certain related provisions in the legislation for information.

Following from the above, the application to recover the filing fee is hereby dismissed.

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: May 28, 2013

Residential Tenancy Branch

