



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TALL TIMBERS MOBILE PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

DRI

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant seeking to dispute an additional rent increase.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Preliminary Matter

Although the tenant made application under the Manufactured Home Park Tenancy Act, this tenancy may possibly be governed by the Residential Tenancy Act as the Notice of Rent Increase was issued under the Residential Tenancy Act, based on the landlord's allegation that both the manufactured home and the pad site were being rented to the tenant. The tenant's position is that they purchased the manufactured home and are only liable to pay the pad rent. Apparently, this ownership issue is now being dealt with through a Supreme Court proceeding.

A previous dispute resolution hearing was held on January 10, 2013 to deal with a prior Notice of Rent Increase on the landlord's application and it was found, by the arbitrator, that this tenancy is not within the jurisdiction of the Act under section 58(2)(c) of the Act because the "*dispute is linked substantially to a matter that is before the Supreme Court of British Columbia.*"

An arbitrator is bound by prior dispute resolution decisions made with respect to a tenancy and a subsequent arbitrator has no authority to reconsider any previous

findings or decisions that were rendered on the same matter. Section 77(3) of the Residential Tenancy Act states that:

“Except as otherwise provided in this Act, a decision or an order of the director is final and binding on the parties.”

I find that, because, in the previous decision issued on January 10, 2013, the arbitrator found that this tenancy was not governed by the Act and declined jurisdiction on the basis that the matter is linked to a dispute before a higher court, I am legally bound by the earlier finding.

Accordingly, this matter cannot proceed, as I have no statutory authority under the Act to hear, nor decide, the dispute between these two parties. I therefore decline jurisdiction with respect to this application.

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: October 21, 2013

Residential Tenancy Branch

