



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, CNR

Introduction

This hearing was scheduled to deal with cross applications. Before me was a Landlord's Application for Dispute Resolution indicating the landlord was seeking an Order of Possession and Monetary Order for unpaid rent and a Tenant's Application for Dispute Resolution indicating the tenant was seeking to cancel a Notice to End Tenancy for Unpaid Rent. Both parties appeared at the hearing and were provided the opportunity to make relevant submissions and to respond to the submissions of the other party.

At the outset of the hearing, it became apparent that the parties may not have a landlord/tenant relationship. Since the parties are both an applicant and respondent in this proceeding I have referred to each of them by their initials from this point further.

Preliminary Issue – Service of Tenant's Application for Dispute Resolution

RM stated he did not receive the Tenant's Application for Dispute Resolution. CG testified that her Application for Dispute Resolution was sent to RM by registered mail using the service address provided on the Notice to End tenancy and on the Landlord's Application for Dispute Resolution. CG pointed out the service address provided by RM is the same as hers.

RM stated he used the subject property as his service address because that is the location where he stores his possessions. RM also stated that mail sent to that address is delivered to a box number in this small town. When RM was asked when the last time he checked the post office box he stated he did not know but that it was a long time ago.

A search of the registered mail tracking number showed that Canada Post left a notice card for RM and he did not claim it so it was in the process of being returned to sender.

Since CG sent her Application for Dispute Resolution to RM at the service address he provided to her, I deemed RM to be served. I informed RM that CG had applied to cancel the subject Notice to End Tenancy that he seeks to enforce.

Preliminary Issue – Service of evidence

RM did not provide any documentary evidence in support of his Application for Dispute Resolution. CG served the Branch with documentary evidence but since she did not serve it upon RM I did not accept or consider her documentary further. As such, I was left with mostly disputed verbal testimony to make a decision in this matter.

Preliminary Issue – Jurisdiction

The Act and my authority to resolve disputes applies to tenancy agreements between a landlord and tenant respecting the use and occupation of a rental unit and residential property.

It was undisputed that there is no written tenancy agreement between the parties and CG has been living in the subject manufactured home since May or June 2013. RM and CG are step-father and step-daughter. Below, I have summarized the parties' respective positions concerning jurisdiction.

RM testified that CG was to pay him rent of \$650.00 on the 1st day of every month and he was responsible for paying rent to the manufactured home park. RM also stated that he had agreed to consider signing documentation with CG after one year of her making payments. RM testified that he served a 10 Day Notice to End Tenancy to CG in May 2014, although he did not know which date, and that he served it because she did not pay rent for April and May 2014. RM acknowledged that he did not have a copy of the 10 Day Notice in front of him and he could not provide any other particulars as to the content of the 10 Day Notice.

CG testified that RM had told her and her sister that he was giving the manufactured home, which was worth approximately \$20,000.00, to her and her sister. Since CG was going to reside in the manufactured home, CG would have to compensate her sister \$10,000 for her half-interest. The agreement was that she would give \$650.00 to RM every month who would in turn pay the pad rental fee to the manufactured home park ("the park") and the balance would be deposited into her sister's bank account, which is was. CG testified that she paid the \$650.00 to RM for April 2014, contrary to RM's statement that she did not. CG testified that she had a copy of the 10 Day Notice and that RM signed it on May 1, 2014 indicating she failed to pay rent for May 2014 but that

he did not deliver it to her until May 10, 2014. CG testified that she offered RM \$650.00 for May 2014 but he refused to accept it. CG testified that she paid the pad rental fee to the park for June and July 2014 and has signed a tenancy agreement with the park. CG stated the owner/manager of the park is to deliver a copy of the tenancy agreement to her today.

RM acknowledged that he was informed by the park in June 2014 that the pad rental fee had already been paid. I asked RM about the discussions he had with the park manager/owner with respect to his tenancy for the manufactured home site to which he responded: "I was pissed off about it then and still am". .

Upon consideration of the testimony of both parties, I find I preferred CG's version of events as she was responsive to my enquiries and was able to provide much more detailed information concerning the agreement between the parties and their dispute. I also find it reasonably likely that CG has entered into a tenancy agreement with the park, as she stated. I find it unlikely RM would be angry with the park if someone had paid his site rental fee and that it is more likely that he was angry because the park entered into a tenancy agreement with CG. If CG has a tenancy agreement with the park she would have a right to use and occupy the site and the dispute between the parties before me becomes one involving ownership of the manufactured home. Disputes involving ownership interest of chattel is not a matter that I have jurisdiction to resolve.

In light of the above, I decline to accept jurisdiction to resolve the dispute between the parties. As such, I do not issue an Order of Possession or Monetary Order for unpaid rent. The parties remain at liberty to resolve this dispute in the appropriate forum.

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: July 10, 2014

Residential Tenancy Branch

