



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with a tenant's application for a Monetary Order for damage or loss under the Act, regulations or tenancy agreement. The landlord did not appear at the hearing although documentation was received by the Branch from the landlord in response to the tenant's Application.

The tenant submitted that he gave a copy of the hearing documents to the landlord's agent named in this Application in person on February 23, 2015 and sent a copy of the hearing documents to the corporate landlord via registered mail sent on February 23, 2015. The tenant orally provided a registered mail tracking number. A search of the registered mail tracking number showed that the registered mail was successfully delivered on February 28, 2015 to the principle of the corporate landlord. I was satisfied the tenant served the landlord with notice of this proceeding and I continued to hear from the tenant without the landlord present.

Issue(s) to be Decided

Has the tenant established an entitlement to receive compensation from the landlord for damage or loss under the Act, regulations or tenancy agreement?

Background and Evidence

The tenant testified that his tenancy commenced approximately 10 years ago and that he is required to pay rent of \$270.00 on the 1st day of the month for the manufactured home site. The tenant owns the manufactured home that is situated on the manufactured home site.

The tenant testified that in late June or early July 2014 he put his manufactured home up for sale and advertising it for sale by word of mouth and by placing a post on Facebook. The tenant was asking \$10,000.00 for the manufactured home based upon the assessed value indicated on his assessment notice from BC Assessment. Shortly afterwards a person came to view the manufactured home and the tenant testified that this person appeared interested in purchasing the manufactured home. The person left without making an offer but contacted the tenant later to enquire as to whether he would be permitted to have a large dog at the park. The tenant enquired with the park manager who advised the tenant that no new tenancies would be approved if the tenant has a large dog. The tenant informed the potential purchaser of this and the tenant never heard from him again.

The tenant acknowledged that the park has pet rules and that certain pets are not permitted such as pitbulls, bull mastiffs and dobermans. However, in the fall of 2014 the tenant observed other tenants move into the park with two pitbulls. The tenant feels he was unfairly discriminated against and that lost the sale of his manufactured home which lead to his claim for compensation of \$10,000.00.

The tenant confirmed that he still owns the manufactured home and testified that he continued to advertise the manufactured home for sale by word of mouth and Facebook. Currently, the tenant has an offer pending of \$5,000.00 and the tenant reduced his claim for compensation to \$5,000.00.

When asked whether the manufactured home was worth \$5,000.00 the tenant replied that it is worth at least \$8,000.00 because that is how much he spent on an addition. When asked whether market had declined since last summer in his area he responded by saying it had not to his knowledge.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 60 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

When a tenant wishes to sell their manufactured home and have their tenancy agreement assigned to the new owner, the Act and Regulations provide a manner in which this is to be accomplished. The tenant is to request the landlord's consent for assignment, in writing. Upon receipt of the written request the landlord is to provide a response to the tenant, in writing, within a certain number of days. If the landlord unreasonably withholds consent to assign the tenancy the tenants remedy is to file an Application for Dispute Resolution. As the tenant acknowledged, he has never requested consent to assign the tenancy agreement in writing. Therefore, it would appear that the tenant seeks compensation on the basis he was given false information by the park manager with respect to pet rules.

Nevertheless, I find the obvious weakness in the tenant's case is that he has not established that he suffered a loss in the amount he claimed. He did not provided evidence to corroborate

that his manufactured home has a market value of \$10,000.00. While that may have been the assessed value from BC Assessment, an assessed value for tax purposes is an estimate that is determined using mass appraisal techniques and does not necessarily take into account the individual characteristics of the home. Typically, a sale of a property in the open market, upon sufficiently exposure to the market, establishes the fair market value of property.

In this case, the tenant employed very limit means to market his manufactured home. He never received an offer of \$10,000.00 from any prospective purchaser. Even if the park allowed large dogs there is no saying what the prospective purchaser would have offered and paid for the manufactured since the parties never reached that point of negotiation. Therefore, I am unsatisfied that the manufactured home was worth \$10,000.00 as submitted by the tenant.

Considering the tenant testified that he has a pending offer of \$5,000.00 perhaps that is the fair market value of the manufactured home as it sits as the cost of additions do not necessarily equate to market value. In any event, the tenant remains at liberty to retain the manufactured home, accept the offer that is before him, or chose to employ marketing techniques that would expose the property to a larger pool of prospective purchasers.

In light of the above, I find the tenant did not establish that he suffered a loss in the amount he is seeking to recover from the landlord and I deny his claim without further exploring whether the landlord violated the Act, regulations or tenancy agreement.

Conclusion

The tenant's application is 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: June 05, 2015

Residential Tenancy Branch

