



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PARKBRIDGE LIFESTYLE COMMUNITIES INC.
and [tenant name suppressed to protect privacy]

INTERIM DECISION

Dispute Codes OLC PSF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the Landlord and the Tenant.

The Landlord filed on July 07, 2015 for Other Reasons and to recover the cost of the filing fee from the Tenant for this application. In the Details of their Dispute the Landlord indicated that they were seeking Orders for the Tenant to comply with parking regulations established in the Manufactured Home Park (hereinafter referred to as the Park) and for the Tenant to remove stored items and debris from his carport which do not meet the established standards in the Park.

The Tenant filed on June 03, 2015 seeking the Landlord be Ordered to comply with the Act, regulations, or tenancy agreement; an Order to have the Landlord provide services or facilities required by law; and for Other Reasons. In the Details of his Dispute the Tenant wrote:

At my site, I don't have enough parking as I have one of the smalls sites. I parked my truck in a unused spot behind the garbage, and got this letter!

[Reproduced as written]

The hearing was conducted via teleconference and was attended by three Agents for the corporate Landlord and the Tenant, and each person gave affirmed testimony. Each application was filed listing one corporate Landlord. Therefore, as there were submissions from three Agents for the Landlord, for the remainder of this decision, terms or references to the Landlords importing the singular shall include the plural and vice versa, except where the context indicates otherwise

I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The Landlords confirmed receipt of the Tenant's application for Dispute Resolution and one page of evidence which consisted of a copy of their May 28, 2015 letter issued to the Tenant on which the Tenant had hand wrote comments onto. They acknowledged that the Tenant had returned several other letters they had written to him by placing them into their mailbox after the Tenant had written comments on them as well. The Landlords asserted that the Tenant had not marked the subsequent letters with his file number or any other indication that those letters were being returned as evidence for this proceeding. The Landlords submitted that the subsequent letters dealt with issues which occurred after the Tenant's application was filed and are therefore, not relevant to the matters pertaining to this hearing.

The Tenant testified that he had not received a copy of the Landlord's application or their evidence. He initially stated that he is currently residing at a different location and when asked if he provided the Landlord with a different service address, the Tenant stated that his mail is still sent to his address in the Park. Upon further clarification the Tenant stated that he attends his home at the Park on a regular basis as that is where his mail is delivered to.

The Landlords provided affirmed testimony that the Tenant was served notice of their application and evidence for both their own application and the responding evidence for to the Tenant's application by registered mail on July 7, 2015. Canada Post tracking information was provided in the Landlord's documentary evidence. Canada Post tracking information confirms that Canada Post attempted delivery of the package on July 9, 2015 and that a notice card was left that date to advise the Tenant they could pick up the registered mail. The tracking information also confirms Canada Post gave a second and final notice on July 21, 2015 that the registered mail was available for pick up.

As of July 23, 2015 the Canada Post tracking information confirms that the Tenant still did not pick up the registered mail. The Tenant asserted that he had not picked up the registered mail because anyone could steal his mail out of his mailbox which is attached to his home.

Section 90 of the *Act* provides that a document given or served in accordance with section 89 of the *Act*, if given or served by mail, is deemed to be received on the 5th day after it is mailed.

Residential Policy Guideline 12 (11) provides that where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

I find the Tenant's submissions that someone could have stolen both notices left for him by Canada Post to be highly improbable given the circumstances presented to me

during this hearing. Rather, I find it more than likely that the Tenant simply refused to pick up the registered mail when he determined it had been sent by the Landlord.

The Tenant was provided with 3 opportunities to receive the registered mail and he did not make any attempt to retrieve it. I find this to be a deliberate effort on the part of the Tenant to avoid service. Therefore, I find the Tenant was deemed served with Notice of this hearing and with the Landlord's evidence on July 12, 2015, pursuant to section 90 *Act*. As such I proceeded to hear the matters pertaining to both applications for Dispute Resolution and I consider only the documentary evidence that was relevant to the issues before me which had been submitted by both parties.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. Following is a summary of the submissions and includes only that which is relevant to the matters before me.

Background and Evidence

The teleconference hearing commenced on July 23, 2015 at 10:30 p.m. and continued for 52 minutes. During this hearing session each party provided their oral submissions in support of their own application and in response to the application filed by the other.

At the conclusion of the hearing I issued oral orders to each party as follows:

- 1) The Landlord was ordered to submit copies of the Tenant's tenancy agreement and any Park Rules and Regulations that were currently held on the Tenant's file to the Residential Tenancy Branch no later than **July 31, 2015**.
- 2) The Tenant was ordered to submit to the Residential Tenancy Branch copies of his tenancy agreement and all Park Rules and Regulations he had been issued during the course of his tenancy no later than **July 31, 2015**.

The Landlords submitted that the Tenant has had a history of refusing to sign tenancy documents so the documents they hold on file are unsigned by the Tenant. That information was noted and the Landlords were instructed to submit their documents despite them being unsigned.

The Tenant asked for clarification on whether he was being ordered to move his truck at this time. I suggested that the Tenant may want to move his truck pending the outcome of this matter. I clarified that I was not issuing any orders for the removal of the truck at this time. The Tenant replied that he refused to move his truck until such time as he was ordered to do so as he will not give into the Landlord's bullying behavior.

The Landlord submitted that they had planned to have the Tenant's truck towed away and requested direction on when they could proceed. I informed the Landlord that my

decision regarding these issues was pending the receipt of the additional documents as ordered above. Therefore, the Landlord should not tow the Tenant's truck until my final decision is issued.

Analysis and Conclusion

62(3) of the Act stipulates that the director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.

The Rules of Procedure # 3.19 stipulates that no additional evidence may be submitted after the dispute resolution hearing starts, except as directed by the Arbitrator.

As per the foregoing, I ordered the Landlord and Tenant to submit copies of the Tenant's tenancy agreement and Park Rules and Regulations. I further ordered that no additional evidence may be submitted. Upon receipt of the additional documents a legally binding decision will be issued to both parties.

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: July 24, 2015

Residential Tenancy Branch

