



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FF

Introduction

This hearing dealt with an application by the tenant seeking to have the landlord comply with the Act, regulation or tenancy agreement and an order to recover the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Preliminary Issue

The tenant submitted an application under the Residential Tenancy Act. At the outset of the hearing all parties advised that the subject address is in fact a manufactured home park and that the issue falls under the Manufactured Home Park Tenancy Act. Although the tenant made in error in applying, I proceeded with the hearing and have applied the pertinent legislation in this matter.

Issues to be Decided

Is the tenant entitled to any of the above under the Act, regulation or tenancy agreement?

Background and Evidence

The tenant gave the following testimony: The tenancy began on or about July 1, 2001. Rent in the amount of \$400.00 is payable in advance on the first day of each month. The tenant stated that he has a chain link fence that borders on lot #8. The tenant stated that over the past few months he has had difficulty the tenants on that site. The

tenant stated that the tenants from lot #8 have made a 41 inch opening in the fence to allow the local diesel company access to deliver fuel. The tenant stated that he was told this might happen but was not given proper notice. The tenant stated that his neighbor could provide access to the fuel company without having to make an opening in his fence and to cut through his lot.

The tenant stated that his neighbor has also caused some safety hazards by laying rail road ties, spikes, piles of dirt and uneven pathways. The tenant stated that the fence is not only ugly but has become unsafe due to these trip hazards. The tenant stated that the only reason this is being done is to harass him. The tenant stated that landlord has not applied the rules of the park evenly or consistently. The tenant stated that the rules themselves are "poppycok and don't apply". The tenant wishes for the fence to be returned to its original state and that the fuel delivery people not cut through his property.

The landlord gave the following testimony:

The landlord stated that park rules clearly give him the authority to deal with fencing and posts as is required. The landlord stated that that the only reason an opening was made in the fence was to allow for easier and safer access for the delivery of fuel to lot #8.

The landlord stated that the fuel company cuts through his lot to deliver fuel to his neighbor. The landlord stated that this is a very common occurrence in the park and that it's not an inconvenience. The tenants from #8 gave testimony and confirmed the testimony of the landlord and the reason for opening in the fence. The neighbor submitted that the opening is only 24 inches and not the 41 the subject tenant alleges.

Analysis

I have carefully reviewed the documentation before me and considered the testimony of all of the parties. The park rules that all parties are subject to, and that the applicant has signed, clearly outlines that management is entitled to address fencing, posts and stakes as they see fit. In addition, I am satisfied that the opening in the fence is for

safety and convenience for the fuel delivery and does not interfere with the enjoyment of the subject tenant. Furthermore, Section 32 of the Manufactured Home Park Tenancy Act addresses the issue before me as follows:

32)

In accordance with the regulations, a park committee, or if there is no park committee, the landlord may establish, change or repeal rules for governing the operation of the manufactured home park.

Based on all of the above the tenant has not satisfied me that the landlord has breached the Manufactured Home Park Tenancy Act and therefore an order for the landlord to comply is not necessary.

The tenant has not been successful in their application.

Conclusion

The tenants' application is dismissed in its entirety.

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: September 17, 2015

Residential Tenancy Branch

