



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GEORGIAN PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OLC

Introduction:

The tenant applies for an order that the landlord comply with the Manufactured Home Park Tenancy Act, the Manufactured Home Park Tenancy Regulation, and /or the tenancy agreement.

Both the tenant and the landlords were represented at the hearing. I was not provided with a copy of the tenancy agreement, but received from the landlords a copy of the Georgian Park Rules & Regulations of May 25, 2011, and the Revised Rules and Regulations of June 15, 2015.

Issues to be decided:

Must the landlord comply with the original tenancy agreement, which permits the owner of the manufactured home to be under 55, or do the current rules and regulations apply to prohibit a sale to any new prospective tenant who is under 55 years of age or older?

Background and Evidence:

The tenant testified that:

This tenancy of a manufactured home pad began October 14, 2006. Pad rent is now \$602.00 per month. When they first purchased the home, the tenants were a family with 7 children. The tenancy agreement stated that they were in the "family" section of the park, which was open to owners 19 and over. New Rules effective May transformed the park to a 55+ Mobile Home Park, and required that all owners be 55 or older. While the tenant became aware of the changes, she denies ever receiving a copy of these Rules, or receiving notice of the Rules when proposed. The tenant did receive the revised Rules of June, 2015, but denies ever receiving an advance notice of such Rule changes. The tenant now wishes to sell the home to an owner who is under 55.

The female landlord testified that:

She and her husband have managed the Park since June 1, 2015. They were tenants in the park in 2011 when the new Rules became effective, and which changed the park to only permitting owners over 55. The new rules provided that the Georgian Park is a 55+ Mobile Home Park. All homes in Georgian Park are owner occupied at all times and renting of homes is not allowed. A person 55 years of age or older must be on the title to the home and living in the home at all times. The landlord testified she was told by the former managers that each unit was canvassed as to the proposed Rule changes. She believes the manager at that time delivered copies of the new Rules to all owners, but does not have personal knowledge that the tenant in fact received them. She notes there was no requirement to obtain signatures to confirm such delivery or to provide personal letters to each tenant advising of the changes. Like other tenants, she herself was unhappy at the time with the Rule changes, and the Rules were the topic around the

Park for a significant period after being proposed. She believes the Rules were instituted properly, and should apply to the tenant's tenancy.

Analysis:

Section 32 of the Manufactured Home Park Tenancy Act provides as follows:

- (1) 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.
- (2) Rules referred to in subsection (1) must not be inconsistent with this Act or the regulations or any other enactment that applies to a manufactured home park.
- (3) Rules established in accordance with this section apply in the manufactured home park of the park committee or landlord, as applicable.
- (4) If a park rule established under this section is inconsistent or conflicts with a term in a tenancy agreement that was entered into before the rule was established, the park rule prevails to the extent of the inconsistency or conflict.

Section 29(2) of the Manufactured Home Park Tenancy Act Regulations provides

- (2) Subsequent to a tenant's entering into a tenancy agreement with a landlord, the landlord must give notice of any rule at least two weeks before the rule becomes effective:

Section 30 of the Manufactured Home Park Tenancy Act Regulations provides

- 30 (1) The park committee or, if there is no park committee, the landlord, may establish, change or repeal a rule if it is reasonable in the circumstances and if the rule has one of the following effects:
 - (a) it promotes the convenience or safety of the tenants;
 - (b) it protects and preserves the condition of the manufactured home park or the landlord's property;
 - (c) it regulates access to or fairly distributes a service or facility;
 - (d) it regulates pets in common areas.
- (2) If there is a park committee, the rules must be established, changed or repealed according to the procedure set out in sections 22 *[park committee decisions]* and 23 *[vote by landlord and tenants]*.
- (3) A rule established, or the effect of a change or repeal of a rule changed or repealed, pursuant to subsection (1) is enforceable against a tenant only if
 - (a) the rule applies to all tenants in a fair manner,
 - (b) the rule is clear enough that a reasonable tenant can understand how to comply with the rule,

(c) notice of the rule is given to the tenant in accordance with section 29 [disclosure], and

(d) the rule does not change a material term of the tenancy agreement.

Although I was not provided with the a copy of the tenancy agreement, I accept that it was made prior to the rule changes in 2011, and that it permitted the tenants to be under 55 at the time they entered into the agreement. I assume also, however, that the original tenancy agreement would include a typical clause to the effect that the landlord would have the right to make and amend rules and regulations, to which the tenant would become bound.

In the circumstances of this case the landlord had the legal right to change the Park Rules including changing the Park to a 55+ park. There is no evidence or argument before me that this change amounts to a material change of the tenancy agreement, as I note the change will affect only those who are new to the park. The tenant suggests the 55+ rule will interfere with the ability to sell the manufactured home, but has presented no supporting evidence to that effect.

Finally, the tenant alleges she had no notice of the proposed Rules. I find this contention to be implausible, and directly contradicts the landlord's testimony that all tenants were canvassed, and the changes were of common knowledge and discussion at the park when initially proposed.

Conclusion:

The tenant's claim 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 *Residential Tenancy Act*.

Dated: January 27, 2016

Residential Tenancy Branch

