



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI RP LRE OLC

Introduction

This hearing dealt with an application pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for:

- an order regarding a disputed additional rent increase pursuant to section 36;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 55;
- an order to the landlord to make repairs to the rental unit pursuant to section 26;
- an order to suspend or set conditions on the landlord’s right to enter the rental unit pursuant to section 63;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The hearing began as scheduled at 11:00 a.m. The tenant disconnected without warning from the teleconference at 11:25 a.m. and did not return although the hearing remained open until 11:35 a.m. to allow for the tenant to reconnect.

Issues

Do I have jurisdiction under the Act to make a decision on the application before me?

If yes, is the applicant entitled to the remedy’s sought in the application?

Background and Evidence

The issue of jurisdiction arose as the respondent submitted that he is operating a RV/Campground and not a Manufactured Home Park. The respondent submits that as per the City of Rosedale his zoning is for that of a campground. There are only recreational vehicles permitted on the campground and not manufactured homes. A tenancy agreement was not entered into with the applicant. The campground has three separate rates for visitors broken down on a daily, weekly or monthly basis. The respondent submits that all utilities and services for the campground are paid by the

respondent and not the visitors. The respondent had initially collected a deposit in case of excess usage of utilities but this deposit was later returned to the applicant.

The applicant submits they have been tenants of the campground since April 2016. The applicant submits that they initially paid \$450.00 per month but the rate has now increased to \$500.00 plus tax. The applicant submits they entered into a tenancy agreement at the start of the tenancy but the respondent did not provide them with a copy of the agreement. The applicant describes the rental unit as a site in the campground for a recreational vehicle owned by the applicant.

The applicant further submits that in a previous decision dated May 18, 2016, an Arbitrator made a decision that the matter fell under the Act.

Analysis

Section 2 of the *Act* stipulates that subject to section 4 [what this Act does not apply to] the *Act* applies to tenancy agreements, manufactured home sites and manufactured home parks.

Under section 1 of the Act, a “tenancy agreement” is defined as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a manufactured home site, use of common areas and services and facilities;

The onus is on the party making an application under the Act to establish that a tenancy agreement exists. I find the applicant has not met this onus. I accept the respondent’s evidence that no tenancy agreement was entered into. The rental unit is a campground and the applicants are paying a monthly fee to occupy the campsite. There is no agreement between the parties respecting possession of a manufactured home site.

I dismiss the applicant’s argument that jurisdiction was determined in the previous decision dated May 18, 2016. I have reviewed the decision and note that the respondent did not attend the hearing and the matter of jurisdiction did not arise is that decision.

I find I do not have jurisdiction to make a decision on the application before me and the application is dismissed in its entirety.

Conclusion

The application is dismissed without leave to reapply.

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 22, 2016

Residential Tenancy Branch