



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Timberland Campground and Motel
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FF, O

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking an order that the landlord comply with the *Act*, regulation or tenancy agreement and to recover the filing fee from the landlord for the cost of the application.

The tenants both attended the hearing and each gave affirmed testimony, however the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord attended the call. One of the tenants testified that she personally served the Manager of the landlord company with the Tenant's Application for Dispute Resolution and notice of this hearing on August 26, 2016, and I am satisfied that the landlord has been served in accordance with the *Manufactured Home Park Tenancy Act*.

Issue(s) to be Decided

Have the tenants established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically a tenancy agreement on a month-to-month basis?

Background and Evidence

The first tenant testified that this month-to-month tenancy began on July 26, 2016 when the tenants purchased the 30 foot travel trailer, containing 3 pop-outs, which was parked on the manufactured home site. The tenants reside in the trailer on the site and pay rent in the amount of \$450.00 per month due on the 29th day of each month. There are no rental arrears, and on July 29, 2016 the tenants paid the landlord a security deposit in the amount of \$225.00 which is still held in trust by the landlord.

The tenant further testified that the landlord evicted the tenants by handing them a note, but has rescinded the eviction and repaid the tenants the \$100.00 filing fee for the cost

of this application. The landlord asked the tenant to sign an agreement, but the tenant told the landlord that she wanted to talk to the Residential Tenancy Branch first. Then the landlord approached the other tenant, who signed the agreement. A copy has been provided and it is entitled: "Agreement to Stay." It speaks of the tenants' dog and visits from RCMP, as well as Rules and Regulations. It also states:

"In signing this agreement you agree that:

Any complaints by any of our current tenants will result in your immediate eviction by a bailiff.

Any incidents or damages caused by yourselves, your dog or your visitors will result in your immediate eviction by a bailiff and will not be the responsibility of the (landlord).

As you stated that (the dog) will be receiving training, you must provide proof of completion for this training."

It is signed by the tenant, the manager and the owner, and is dated August 30, 2016, after the tenants served the landlord with the Tenant's Application for Dispute Resolution and notice of this hearing. The tenant testified that the landlord was also served with the evidentiary material, including a copy of the Agreement to Stay on October 4, 2016.

The tenant further testified that the tenants have exclusive possession of the site and it has a fence all around it. The tenants believe that if they vacate the site, they would be bound to give the landlord a month's written notice. The Rules of the park refer to "tenants" in several places, and that mailboxes are available for "tenants" only and not unregistered guests.

The second tenant testified that the landlord arrived at the tenants' home while the dog trainer was there. Then the landlord told the tenant that the tenants had to sign the agreement, and believing it was a tenancy agreement, the tenant signed it. The tenant did not read it before signing because the tenant cannot read. The landlord gave the tenants back the \$100.00 filing fee saying that the tenants could stay and that the landlord had learned that the things he had previously heard were not true.

The trailer has been on the site for a few years according to neighbours who also have fences around their sites. Neighbours have been in the park for 1 to 10 years. The tenant built a fence at the request of the landlord to allow the landlord access to the hydro building so that the landlord wouldn't have to give notice to enter onto the site to access it. The landlord gives notice to the tenants when attending the site.

The tenants seek an order that the *Manufactured Home Park Tenancy Act* applies, and for an order that the landlord comply with the *Act* and a month-to-month tenancy, but do

not seek an order that the landlord return the security deposit or recovery of the filing fee.

Analysis

The *Manufactured Home Park Tenancy Act* does not apply to a license to occupy. In order to determine whether the parties have entered into a tenancy agreement or a license to occupy, several factors can be considered. Those factors include where a landlord gives notice to enter onto a site, the site is self-contained (fenced), the trailer was previously occupied in the same site, the tenant is required to give 1 month's notice to vacate the site, and Rules of the park refer to "tenants" and "unregistered guests." I am satisfied that a tenancy exists.

The tenant who signed the "Agreement to Stay" cannot read, but did not say whether or not the landlord was aware of that when he signed it. However, I find that it is not an enforceable agreement, and does not comply with the *Act*.

Since no written tenancy agreement exists, the tenancy is on a month-to-month basis.

Conclusion

For the reasons set out above, I order the landlord to comply with the *Manufactured Home Park Tenancy Act* with respect to the rental site.

I further order the parties to comply with a tenancy agreement on a month-to-month basis pursuant to the *Manufactured Home Park Tenancy Act*.

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: October 27, 2016

Residential Tenancy Branch