



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cedar Grove Mobile Home Park
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O, FF

Introduction

This is an application brought by the Landlord requesting an order for the tenant to comply with the manufactured home park rules.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties and the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the tenant is failing to comply with the present Park rules of the manufactured home Park with regards to dogs, and unlicensed vehicles.

Background and Evidence

At the beginning of the conference call the landlord stated that the issue of the unlicensed vehicle has been resolved and therefore the only remaining issue is the compliance of the rule regarding the size of dogs.

The applicant testified that clause 15 of the rules of the manufactured home park states that dogs made be no more than 12 inches high at the shoulders.

The applicant further testified that the tenant has a large German Shepherd living in a rental unit and, even though he is given her two warning letters to comply with clause 15 of the rules, the dog is still at the rental property.

The applicant further testified that these rules were already in place when he moved into the manufactured home Park in 1997.

The applicant further testified that these rules are in place for the benefit of all people in the manufactured home park and he cannot make an exception for one.

The applicant is therefore requesting that the tenant be ordered to comply with the rule regarding the size of dogs.

The tenant testified that she has been in the manufactured home park since 1983, and never agreed to these new Park Rules.

The tenant further testified that there have been two different sets of park rules since she moved into the rental site, one that said medium dogs, and now this one that says dogs of 12 inches at the shoulders.

The tenant further testified that it is not her dog, it is her grandson's dog, and it only comes to visit for periods of up to two months.

The tenant therefore does not believe that she should be bound by this particular Park Rule.

The tenants witness testified that he has seen three large dogs that some squatters have moved into unit number 84, and therefore he believes that the landlord is not enforcing the rule equally.

In response to the tenant's testimony the landlord testified that the Park rules were changed because the term "medium-sized dogs" was too vague, and therefore new Park Rules were brought in specifying the 12 inch at the shoulder height.

The landlord further testified that it's not a reasonable for the tenant to expect that she should be allowed to have a larger dog, even if it is not on a permanent basis.

In response to the witness testimony about the dogs in unit number 84, the landlord testified that, that matter has already been dealt with, and he has an Order of Possession from the Residential Tenancy Branch.

Analysis

Clause 30 of the Manufactured Home Park Tenancy Regulation states:

- 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.

It is my finding therefore that although the rule about the height of dogs may not have been in place at the beginning of the respondent's tenancy, the landlord did have the right to change the rules, and the respondent is therefore bound by these new rules.

Secondly, I do not accept the tenant's argument that the German Shepherd is only visiting, because the tenant herself has testified that the dog stays for periods of up to

two months, and it's my finding that that is too long a period to be considered just visiting.

Further, although the respondent and her witness have argued that the landlord is not enforcing the rule equally, it's my finding that they have not met the burden of proving that claim, especially since the landlord has testified that he has obtained an Order of Possession against the parties who had the large dogs in unit 84.

It is my decision therefore that the tenant must comply with rule 15 of the Park rules.

Conclusion

Pursuant to Section 55 of the Manufactured Home Park Tenancy Act, I have issued an order for the tenant to comply with Park rule number 15, by permanently removing the large German Shepherd from the Park.

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: November 15, 2016

Residential Tenancy Branch