



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O F F

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Landlord on September 14, 2016. The Landlord filed seeking an order for other reasons to have the Tenant comply with Park Rules, and to recover the cost of the filing fee.

The hearing was conducted via teleconference and was attended by the Landlord, the Landlord's legal counsel (Counsel); the Tenant, and the Tenant's legal Advocate (Advocate). The Landlord, Tenant, and Counsel gave affirmed testimony. I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

Each party confirmed they served each other with copies of the evidence that they had served the Residential Tenancy Branch (RTB). Each party confirmed receipt of each other's evidence and issues regarding service or receipt were raised. As such, I accepted the each party's submissions as evidence for these proceedings.

Each party was provided with the opportunity to present relevant oral evidence, to ask questions, and to make relevant submissions. Following is a summary of those submissions and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Has the Landlord submitted sufficient evidence to prove the Tenant has intentionally breached the Park Rules?
2. If so, should the Tenant be ordered to comply with the Park Rules?

Background and Evidence

The Tenant has occupied the manufactured home park site (the Site) since June 2003 on a month to month tenancy agreement. Effective June 1, 2016 rent was increased to \$537.80.

The parties have been at dispute resolution on two previous occasions. The first hearing was October 2014 regarding the Tenant's request to cancel a 1 Month Notice to end tenancy issued for cause. The second hearing was conducted on July 15, 2015 and August 18, 2015 to hear the Landlord's application to request an early end of tenancy, an order of possession, and for other reasons. The file numbers and Decision dates relating to the aforementioned hearings are listed on the front page of this Decision.

The Landlord submitted into evidence a section of the October 3, 2014 Decision whereby the arbitrator wrote, in part, as follows:

He must conduct himself civilly as a manufactured home park tenant.

[Reproduced as written]

The Landlord testified that on September 12, 2016 he saw a vehicle parked on the main roadway in front of the mailboxes, in breach of the Park Rules and in breach of a no parking sign which was posted in that area. He stated he placed a notice on the windshield of that vehicle and as he walked away he saw the Tenant remove the notice from the car. The Landlord asserted the Tenant yelled at him saying he was sick of him.

The Landlord submitted that when he saw the notice was no longer on the car he went home to get another notice and his camera and when he returned the car was gone. He stated he did not know whose car was parked there; however, he suspected it was someone who was a guest at the Tenant's house.

The Landlord argued the aforementioned was just another example of the Tenant trying to undermine the manager's responsibility to look after the Park and other tenants. He stated he does not discriminate between tenants or their visitors and all visitors are required to park in the visitor's parking stall and not on the main road.

The Landlord stated he filed his application for Dispute Resolution to seek an order to have the Tenant act civilly, according to Park rules, and to allow the manager to conduct his duties as the Park Manager.

The Tenant testified that the vehicle in question belonged to the registered nurse who was at his home providing care for his wife. He stated he told the nurse that the Landlord had placed a notice on her car and she requested that he remove the notice and bring the notice to her to read.

The Tenant confirmed that he had words with the Landlord when he removed the notice from the car when he told the Landlord he needed "to go see a psychiatrist".

The Tenant argued he had previously received a copy of the "old" Park Rules prior to this application being filed, as submitted into evidence. He submitted that he did not receive a copy of the new Park Rules until he received them as evidence for this hearing. He noted that the Landlord submitted an unsigned copy of the new Park Rules,

or what the Tenant assumed to be the Park Rules dated 2014. He asserted that neither copy of the Park Rules stipulated where guests were allowed to park.

The Landlord argued the Tenant had lost the previous Park Rules in a house fire and that the 2014 Park Rules had been served upon the Tenant as evidence for the previous disputes. The Landlord said the Tenant yelled at him that he was “sick of me” after he posted the notice on the visitor’s car.

Counsel confirmed the Landlord’s submissions that the Tenant had been served copies of the current Park Rules as evidence for previous disputes. He pointed to the 3rd line in item #21 found on page 6 which states “Parking is not permitted: on park streets, in fire lanes or any neighbor’s rental lot, two (2) vehicles only to be parked on your driveway.

The Landlord now seeks a compliance order as the parties are expected to treat each other civilly and act in good faith.

Analysis

Section 55(2) of the *Act* stipulates that the director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this *Act*. After careful consideration of the foregoing; documentary evidence; and on a balance of probabilities I find pursuant to section 55(2) of the *Act* as follows:

The *Act* does not provide an arbitrator jurisdiction to order a party to *Act* civilly, it does however provide an arbitrator the authority to order a party to comply with the *Act*, Regulation, or Park Rules if there is sufficient evidence to warrant such an order.

The *Act* provides that a landlord may issue a tenant with a written warning outlining a breach of the *Act* or the Park Rules. If the tenant fails to correct that situation or breach within a reasonable time after the landlord gives written notice to do so, then the landlord may issue the tenant a 1 Month Notice to end tenancy for cause, pursuant to section 41 of the *Act*.

I accept the undisputed evidence that there was a vehicle parked in front of the mail boxes on September 12, 2016 and that vehicle belonged to the Tenant’s guest. I further accept the Tenant’s guest responded to the Landlord’s note immediately and moved her car before the Landlord returned with another note. That incident occurred the day before the Landlord filed his application for Dispute Resolution.

In addition, it was undisputed the Landlord and Tenant exchanged words shortly after the Landlord placed the note on the visitor’s car. That being said, I find there was insufficient evidence the Tenant initiated that conversation or that his intention of removing the note was simply to thwart the Landlord’s authority to manage the Park. Rather, I found the Tenant’s explanation to be reasonable given the circumstances presented to me during the hearing. Therefore, I find the Landlord submitted insufficient

evidence warrant issuance of an Order to comply. Accordingly, I dismiss the application in its entirety.

Conclusion

The Landlord's application was dismissed in its entirety.

This decision is final, legally binding, and 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 21, 2016

Residential Tenancy Branch