



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 673587 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR; ERP; RP

Introduction

This Hearing was scheduled to consider an Application for Dispute Resolution made under the Manufactured Home Park Tenancy Act. The Applicant seeks an extension of time to cancel a notice to end tenancy; to cancel a Notice to End Tenancy for Unpaid Rent; and orders that the Respondent make emergency and regular repairs at the site.

Both parties provided affirmed testimony at the Hearing. The Respondent submitted that the Manufactured Home Park Tenancy Act does not apply to this matter. Both parties gave extensive oral testimony and documentary evidence with respect to the Application; however, I have only included the relevant submissions in this Decision.

Preliminary Matter - Jurisdiction

The Applicant gave the following testimony:

The Applicant testified that he only just received a copy of the “RV Park Agreement”, “2 or 3 weeks ago”. A copy of the Agreement was provided in evidence.

The Applicant stated that he moved on to the site on December 2, 2015. He stated that he paid \$390.00 per month “a few days before the end of each month”, and that “the disability office pays my rent” directly to the Respondent’s bank account. The Applicant testified that he doesn’t know if GST is included in the monthly rent payments. The Applicant stated that garbage collection is included in rent, but otherwise no utilities are included. He stated that there are no laundry facilities on site.

The Applicant testified that the Respondent attempted to raise the rent to \$405.00 “about a month ago”, but he told the property manager PW that he wanted to “take it to the Branch first”, so she took the papers away.

The Applicant stated that he did not receive an “official” notice to end the tenancy.

The Respondent JL and his agent PW gave the following testimony:

PW testified that she gave the Applicant a copy of the Agreement “just after he moved in” and asked him to sign it and bring it back to her. She testified that the Tenant did not bring back a signed copy, so she gave him a second copy to sign.

JL stated that the Park is approximately 60 years old and that it consists of both manufactured home sites and RV sites. JL testified that some years ago, the municipality found that the Park was non-conforming, and that building permits were issued based on lots 2 to 8 and lot 14 being identified as RV sites and the remaining lots 9 to 13 and 15 to 28 being identified as manufactured home sites. He stated that the Applicant’s site is one of the sites deemed to be an RV site by the municipality. A site map and a copy of a letter from the municipality dated February 7, 2007, were provided in evidence.

JL submitted that the Applicant’s RV is not registered as a manufactured home with the Manufactured Home Registry and is not a permanent structure. JL stated that the Applicant pays no property tax or “water/sewage connection” tax.

JL submitted that GST is included in rent.

Analysis

Based on the evidence provided, I find that the Manufactured Home Park Tenancy Act does not have jurisdiction over this matter, for the following reasons:

1. The RV Park Agreement, which was signed by both parties, provides, in part:

“The RV owner must pay the park fee on time. If the fee is late, the RV Park **may end this agreement, which may take effect not earlier than one day after the date the Notice is given.**”

[Reproduced as written, my emphasis added]

The Manufactured Home Park Tenancy Act provides that, in the event of unpaid rent:

“39 (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is **not earlier than 10 days after the date the tenant receives the notice.**

(2) A notice under this section **must comply with section 45 [form and content of notice to end tenancy].**

(3) A notice under this section has no effect if the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from rent.

(4) Within 5 days after receiving a notice under this section, the tenant may
(a) pay the overdue rent, in which case the notice has no effect, or
(b) dispute the notice by making an application for dispute resolution.

[Reproduced as written, my emphasis added]

In this case, the Respondent did not issue a notice to end the tenancy under the Act, and the RV Park Agreement provides that none is required.

2. The letter from the municipality dated February 7, 2007, and the site map both indicate that the Applicant's site is one of 9 RV sites at the Park, under the municipality's zoning regulations.

Conclusion

I find that this matter does not fall within the Manufactured Home Park Tenancy Act and I decline jurisdiction.

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: April 28 2017

Residential Tenancy Branch