



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OLC, ERP

Introduction

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

- a return of all or part of the pet damage deposit and security deposit;
- an order requiring the respondents to comply with the Act, regulation or tenancy agreement pursuant to section 55; and
- an order to the respondents to make emergency repairs to the rental unit pursuant to section 27.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

As both parties were in attendance I confirmed that there were no issues with service of the application for dispute resolution or either party's evidentiary materials. The parties confirmed receipt of one another's materials. In accordance with sections 88 and 89 of the *Act*, I find that the respondents were duly served with copies of the application for dispute resolution and that the parties were duly served with their respective evidence materials.

Issues

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

If so, is the applicant entitled to the remedies sought in the application?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the claims and my findings are set out below.

At the outset of the hearing the respondents' counsel raised the issue of jurisdiction as it was submitted that the respondents are operating a RV/Campground and not a Manufactured Home Park. Counsel submits that the property is a campground as per the Regional District land use regulations. There are only recreational vehicles permitted on the site and not manufactured homes. The written agreement states that the site "is not a trailer or mobile home park, and therefore cannot be used as a permanent address-you may stay for a month, or for as many months as you wish, but it is not a permanent address".

The applicant began occupancy on October 1, 2016 and has been paying the monthly rate of \$355.00 for occupancy. When the applicant is unable to pay by the first of the month a daily rate of \$25.00 is also charged. The applicant submits that they entered into a tenancy agreement and a security deposit of \$177.50 was paid at the start of the tenancy. The applicant describes the rental unit as a site in the campground for a recreational vehicle owned by the applicant. The applicant said that most of the occupants of the campground have resided on the site for months and years.

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.

Residential Tenancy Policy Guideline 9 lists some of the factors to consider in determining if a situation is a tenancy or a license to occupy. These factors include the intended use of the manufactured home, the nature of the property where the home is located, the zoning restrictions set by the local government, and the services and restrictions imposed in the agreement. Although a manufactured home is defined under the *Act* in way that may include recreational vehicles, the onus is on the party making an application under the *Act* to establish that a tenancy agreement exists.

I find that the applicant has provided insufficient evidence in support of the existence of a tenancy agreement. I find that the rental unit is a campground site and the applicant pays a monthly fee to occupy the campsite. I find that the written rules clearly sets out

that the property is a campground. I do not find the duration of occupancy to have converted the agreement into a tenancy. Nor do I find the length of time of other occupants of the campsite to be persuasive evidence that this is a manufactured home park. I find the restrictions imposed on visiting hours in the agreement to be a restriction one would expect in a campsite but not in a manufactured home park.

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

Conclusion

I find that I do not have jurisdiction in this matter and I dismiss the tenant's application for dispute resolution.

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: May 15, 2017

Residential Tenancy Branch