



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cecil Lake Farms Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened in response to an application pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 60;
2. An Order for Possession - Section 48; and
3. An Order to recover the filing fee for this application - Section 65.

The Applicant was only represented by Legal Counsel and no person attended to give evidence on behalf of the Applicant. The Respondent was given full opportunity under affirmation to be heard, to present evidence and to make submissions.

Preliminary Matter

I amend the application to remove person RZ named as a Landlord based on the submissions of Legal Counsel that person RZ is not a Landlord and was named as such in error. The Respondent made no objections.

Issue(s) to be Decided

Does the Act apply to the dispute?

Background and Evidence

The Applicant’s documents submitted as evidence indicates that the Applicant rented a portion of land to a 3rd party under a “Land Lease Agreement”. The Agreement allows the 3rd party to park two mobile homes on the land and to have a set number of animals. The 3rd party paid monthly rent of \$550.00 to the Applicant. In 2011 the 3rd party sold the mobile home to the Respondents who paid the 3rd party for the rent of the land. The 3rd party paid the rental amount

to the Applicant until 2013 after which no rents were paid to the Applicant. On May 24, 2017 the Applicant served the Respondents in person with a 10 day notice to end tenancy for unpaid rent. The Applicant claims an order of possession and a monetary order for \$33,000.00.

Legal Counsel argues that that the land being occupied is not on a home park but is a home park site and that the dispute is therefore covered by the Act. Legal Counsel argued alternatively that the land is a home park. No evidence of the property being zoned as a home park was provided.

The Respondent states that the mobile home is on a ¼ section of farm land, that no other persons are renting the land for residential purposes, that the 3rd party originally leased farm land without services and that the 3rd party installed the electricity, water and sewer services for the mobile home on the land prior to selling the mobile home to the Respondent. The Respondent states that no arrangements were made to lease the property after the final purchase of the mobile home. The Respondent states that he asked the Applicant for a lease as he cannot sell the mobile home without a lease for the property that it is situated on and because he was also seeking to add additional land to the agreement. The Respondent states that the Applicant refused to provide a written lease agreement and told the Respondent that he would never have to leave. The Respondent states that the Applicant was informed that no rents would be paid until an agreement setting out an amount of rent payable for the land was provided. The Respondent states that for the longest time the Applicant never contacted the Respondent about the agreement and that the Respondent has been waiting to resolve this matter.

Analysis

Section 2 of the Act provides that the Act applies to tenancy agreements, manufactured home sites and manufactured home parks. Section 1 of the Act provides as follows:

- **"tenancy agreement"** means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a manufactured home site, use of common areas and services and facilities;

- **"manufactured home park"** means the parcel or parcels, as applicable, on which one or more manufactured home sites that the same landlord rents or intends to rent and common areas are located; and
- **"manufactured home site"** means a site in a manufactured home park, which site is rented or intended to be rented to a tenant for the purpose of being occupied by a manufactured home;

Given the undisputed evidence of the Respondent that the property was only outfitted with water, sewer and electrical services by the 3rd party prior to and for the reason of the sale of the mobile home to the Respondent, given the evidence of the original lease being entitled "Land Lease Agreement", and given the lack of zoning evidence for a mobile home park, I find that the land was never intended to be used or operated as a manufactured home park and is not a mobile home park. I find therefore that the mobile home is therefore not situated in a manufactured home park and that the terms of the Respondent's occupation and use of the land is not under the jurisdiction of the Act. I dismiss the application.

Conclusion

The Act does not apply to the dispute. The application is therefore dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: September 14, 2017

Residential Tenancy Branch