



# Dispute Resolution Services

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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      OLC, FF

### Introduction

This hearing was convened in response to two applications by the Landlord pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”)

The first application made June 22, 2017, with an amendment made August 2, 2017 seeks Orders as follows:

1. An Order for the Tenant’s compliance - Section 55; and
2. An Order to recover the filing fee for this application - Section 65.

The second application made July 20, 2017 seeks Orders as follows:

1. An Order for the Tenant’s compliance - Section 55; and
2. An Order to recovery the filing fee for this application - Section 65.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matters

The Landlord seeks an adjournment as his legal counsel was not able to attend this hearing.

The Tenant does not agree to the adjournment as the Tenant is elderly and is under significant stress from this dispute. The Tenant wishes to resolve the dispute on the scheduled date.

Rule 7.8 of the Residential Tenancy Branch Rules of procedure provides that the arbitrator will determine whether the circumstances warrant an adjournment. As the matter in dispute is not legally complicated, as the Landlord does have representation with a legally trained individual and as I accept that to adjourn would cause greater stress than already felt by the elderly

Tenant I consider that the circumstances do not warrant an adjournment and I deny the request for one.

The Tenant states that it did not receive a copy of the amended application. The Landlord states that the amended application was sent to the Tenant by registered mail but confirms that the amendment is a duplicate of the second application that the Tenant confirms having received. As the amendment is identical to the second application I find that the Tenant has been given sufficient notice of the substance of the claim contained in the amendment. Considering the Tenant's evidence of not having received the amendment I dismiss the amendment.

#### Issue(s) to be Decided

Is the Landlord entitled to orders that the Tenant comply with the Act or tenancy agreement or rules?

#### Background and Evidence

The Landlord did not provide a copy of any tenancy agreement. The Landlord states that there was none and does not know when the tenancy started as the Landlord was not involved with the home park until recently. The Tenant states that a written tenancy agreement was entered into in 1983 and that nothing in this agreement restricts the Tenant from having a shed on the site.

The Parties agree that rent of \$557.70 is payable on the first day of each month.

The Landlord states that new rules were promulgated in 2016 and that the Tenant was given a copy of the new rules in person. The Tenant states that the new rules were provided to the Tenant in relation to a previous hearing. The Landlord submits that the decision from this hearing found that the Tenant was provided with the new rules.

The Landlord states that nothing restricts the Tenant from having a shed but that the Tenant is not in compliance with Rule 31 that provides that "Any additions or improvements are subject to Municipal Bylaws and requires Written approval from the PARK before starting and approval, when finished." (reproduced as written). The Landlord states that the Tenant rebuilt a shed

without permission and although the Tenant currently has the permit for that work, the Tenant did not have the permit at the time. The Landlord claims an order for compliance with the Rules and an order that the shed be removed in its entirety.

The Tenant states that the shed was there when the tenancy first started and that as it was starting to age and fall apart the Tenant made repairs and ended up with a rebuilt shed that now appears new. The Tenant provides witness letters from other residents in relation to the length of time the shed has been in the yard. The Landlord agrees that the Rules require the Tenant to maintain and upkeep the premises. The Landlord states that a photo of the yard taken in July 2017 only shows one shed and submits that the Tenant built a new shed.

The Landlord states that between June 1 and August 4, 2017 the Tenant periodically parked her recreational vehicle at the unit contrary to the rules and that although the Tenant is currently in compliance by having removed the vehicle the Landlord seeks an order removing the Tenant's entire right to park the vehicle due to her past actions and no comfort that the Tenant will continue to comply with the rule. The Tenant states that she agrees to comply with the rules and will seek permission to park the vehicle as provided in the rules.

### Analysis

Section 70(3) of the Act provides that a decision or an order is final and binding on the parties. Given the finding in the previous decision dated November 15, 2016 that the Tenant received the rules I find that the matter of whether the Tenant was provided with the new rules to have been settled in a final and binding decision. As a result I accept that the Tenant received the new rules as required under the Act.

Section 55(3) of the Act provides that any order necessary may be made to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement. Although the Landlord asserts that a photo shows only one shed, I cannot discern any shed in the one color photo showing a string of trees and the other photos that show a single shed is not angled to show the side of the home as depicted in the photo containing two sheds. Given the Tenant's supported evidence from other residents I find on a balance of probabilities that the shed in question was present at the start of the very old tenancy. I do not consider the Tenant's efforts to rebuild the aged shed

either an addition or an improvement that requires the approval of the Park. I consider the Tenant's efforts to rebuild the shed as efforts to remain in compliance with the obligation to maintain the property and lot. As a result I find that the Landlord has not substantiated that the Tenant is out of compliance with the rules and I dismiss this claim.

I accept the Tenant's agreement to comply with the rules in relation to the recreational vehicle and therefore dismiss the Landlord's claim to remove the Tenant's right in relation to the parking of the recreational vehicle at the unit. Should the Tenant breach her agreement the Landlord has leave to reapply.

As the claims for compliance have not been successful I find that the Landlord is not entitled to recovery of either filing fees and in effect both applications are dismissed in their entirety.

#### Conclusion

The applications are 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 1, 2017

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Residential Tenancy Branch