



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNDC OLC

Introduction

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

- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 55;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

Issues

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

If yes, is the applicant entitled to the remedy's sought in the application?

Preliminary Issue - Jurisdiction

The applicant was seasonally employed by the Resort and resided in a campsite in her recreational vehicle.

The respondent submits that they are a designated long-stay campsite under the *Park Act*. The applicant was seasonally employed by the Park and during her employment offered an option of residing in her recreational vehicle at the campground. The applicant was not charged rent but was charged a nightly accommodation fee. The fee is to cover a portion of the cost of utilities for the campsite. The employees are charged a staff deposit of \$225.00 to cover uniforms, keys and any damage to the accommodation or outstanding guest charges. The respondent submits the applicant

signed a trailer pad utility agreement which clearly indicates that it is not a rental agreement.

Analysis

Section 2 of the *Act* stipulates that subject to section 4 [what this Act does not apply to] this *Act* applies to tenancy agreements, manufactured home sites and manufactured home parks.

Under section 1 of the Act, a “tenancy agreement” is defined as 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.

The onus is on the party making an application under the Act to establish that a tenancy agreement exists. I find the applicant has not met this onus. I accept the respondent’s evidence that no tenancy agreement was entered into. The property in question is a campsite and the applicant paid a nightly accommodation fee to occupy the campsite in a recreational vehicle and not a manufactured home. There is no agreement between the parties respecting possession of a manufactured home site.

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

Conclusion

The application is dismissed without leave to reapply. 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: December 11, 2017

Residential Tenancy Branch