



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC CNR OLC ERP

Introduction:

This is the third hearing between these parties, two being in 2017. Only the respondent landlord's agent attended this hearing and gave affirmed testimony. He said this hearing had been rescheduled from February 2017 due to a telephone problem and both parties had agreed to this rescheduled date for the hearing. After examining file notes online, I find both parties were aware of and consented to this date for the hearing. The application is made under the *Manufactured Home Park Tenancy Act* (MHPTA)

In the July 2017 hearing, a Notice to End Tenancy for Cause and a Notice to End Tenancy for unpaid rent were both set aside and cancelled. The landlord was ordered to make repairs and comply with the Act. In the November 22, 2017 hearing, the arbitrator obtained the logistics and description of the subject property and declined jurisdiction as he found the respondent's field where the applicant had parked his home did not meet the definition of a manufactured home park and the applicant's matter does not fall under the definition of a Manufactured Home Park Tenancy Agreement because it does not involve possession of a manufactured home site together with the use of common areas, services and facilities.

Preliminary Issue: Jurisdiction to hear this Matter

The landlord's agent confirmed that the situation had not changed. Since the arbitrator in the last hearing declined jurisdiction, the matter was heard in the Supreme Court. The Court determined that the applicant was a "trespasser".

The facts as found in the November 22, 2017 hearing is that the applicant is the only person residing on the property and that the respondent is not running a Manufactured Home Park. The respondent had allowed the applicant to park his home on the property.

I find section 1 of the MHPTA defines the following terms:

"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;

"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;

“service of facility” includes any of the following that are provided or agreed to be provided by a landlord to the tenant of a manufactured home site:

(a) Water, sewerage, electricity, lighting, roadway and other facilities...

“tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and tenant respecting possession of a manufactured home site, use of common areas and services and facilities.

I find the respondent’s described ‘dirt field’ does not offer any of the services or facilities as described. It does not have water, sewerage, utilities or garbage facilities. Therefore, I find the matter does not involve possession of a manufactured home site together with the use of common areas and facilities so does not fall under the definition of a MHPTA tenancy agreement. I note the Supreme Court found the applicant was a “trespasser”, not a tenant. I also find the matter is res judicata (already heard and decided) in December 2017 when jurisdiction was declined.

Conclusion:

I decline to hear the applicant’s application as I do not have jurisdiction. I find the MHPTA does not apply to this matter.

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: March 07, 2018

Residential Tenancy Branch