



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TIKENICOL ENT. LTD. dba PINES MOBILE HOME PARK
and [tenant name suppressed to protect privacy]

DECISION

Introduction:

Both parties and witnesses attended the hearing and gave sworn or affirmed testimony. The tenant was also represented by legal counsel and had a support person to assist her. The tenant said they served the landlord with their Application dated July 9, by registered mail and the landlord acknowledged receipt. I find these documents were legally served pursuant to sections 81 and 82 of the Act for the purposes of this hearing. However the landlord said they received no evidence from the tenant although the tenant maintains she served them by registered mail with packets of evidence. The tenant applies pursuant to the *Manufactured Home Park Tenancy Act* (the Act) for orders as follows:

- a) Compensation or a rent rebate for the landlord's disturbance of their peaceful enjoyment contrary to section 22 and for illegal entry to their home site contrary to section 23;
- b) Compensation of \$35,000 for aggravated damages.

Issues to be Decided:

Has the tenant proved on the balance of probabilities that the landlord has disturbed her peaceful enjoyment and she is entitled to compensation? If so, in what amount?

Preliminary Issue:

At the outset of the hearing, the advocate of the tenant requested an adjournment due to the evidence, the complexity and time to gather more evidence.

Rule 6 of the Residential Tenancy Branch Rules of Procedure provide rules on rescheduling and adjournments. Rule 6.1 states the Branch will reschedule if written consent is received from both parties at least 3 days before the scheduled date for the hearing. I find the advocate provided insufficient evidence that the tenant tried to obtain consent from the landlord to reschedule the hearing.

Rule 6.3 provides an arbitrator may adjourn the proceeding after the hearing commences. The criteria for granting an adjournment are set out in Rule 6.4. In applying the criteria, I find there would be some prejudice to the landlord in adjourning

the hearing as the landlord alleges they never received any evidence from the tenant. I also find an adjournment is unlikely to contribute to a resolution of the matter as the matter is very contentious and the parties indicated no interest in settling without monetary compensation to the tenant. Furthermore as the landlord has not received any evidence, I find on the principles of Natural Justice it is unfair to continue the hearing. I find the purpose of an adjournment is not to gather more evidence or to compensate for lack of service. I declined to grant an adjournment.

Background and Evidence and Analysis:

Both parties attended the hearing and were given opportunity to be heard, and to make submissions. While the tenant alleged she served her evidence to the landlord, I find insufficient evidence to support her allegation. I find she is claiming a substantial monetary award against the landlord for significant disturbance of her peaceful enjoyment, trespassing on her home site, unreasonable enforcement of park rules and intimidation. Her advocate advised she had submitted lots of evidence but I was unable to open one of her files with the ending .msg and apparently she had included a significant portion of her evidence in that file.

I discussed the option of dismissing this application with leave to reapply. The advocates advised that they would assist the tenant in filing and serving her evidence for the new hearing which will be scheduled after she files her new application. I note the Act provides that the tenant may serve her evidence personally or by mail. I suggest that if it is served personally by her representative that a witness should be present or if it is served by registered mail that the tracking numbers and contents of each envelope be recorded and submitted for evidence.

Conclusion:

I dismiss the Application of the tenant as I find insufficient evidence that she served the landlord with the evidence on which she relies. I give her 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: August 16, 2018

Residential Tenancy Branch