



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, OT, FFT

Introduction

This teleconference hearing was scheduled in response to an application under the *Manufactured Home Park Tenancy Act* (the “Act”) for monetary compensation, for other issues and for the recovery of the filing fee paid for the Application for Dispute Resolution.

Both applicants were present for the teleconference hearing while no one called in for the respondent. The applicant E.P. was affirmed to be truthful in her testimony and spoke on behalf of both applicants. The applicant stated that they served the respondent with the Notice of Dispute Resolution Proceeding package and a copy of their evidence by registered mail. The applicants submitted the registered mail tracking information into evidence and stated that the package was returned to them as unclaimed. Despite not claiming the mail, I find that the respondent was duly served as required.

Preliminary Matter – Jurisdiction

The applicant provided information regarding the dispute that led to questions about jurisdiction. The applicant stated that they own a fifth wheel trailer that they parked on the respondent’s property. They stated that the respondent had intended to start an RV park or campground and noted that approximately six other people/families resided on the property. The applicant stated that they signed an agreement with the respondent. They submitted one page of an unsigned agreement into evidence as they were not able to find the signed one. The page submitted does not include details about the agreement other than a note that states a \$2,500.00 deposit is due with \$2,000.00 owing upon occupancy.

The applicants stated that they paid \$2,000.00 when entering into the agreement with the respondent and an additional \$2,500.00 when their trailer was put onto the property. They noted that the \$4,500.00 payment was for the entire year.

The applicant stated that the respondent had agreed to provide electricity and water, but that this was not done. As such, the applicants stated that they obtained water from the creek and purchased a generator for electricity. The applicants stated their understanding that the respondent was setting up an RV park or campground and that the property was not a manufactured home park.

I refer to *Residential Tenancy Policy Guideline 9: Tenancy Agreement and Licenses to Occupy* which states the following:

Although the Manufactured Home Park Tenancy Act defines manufactured homes in a way that might include recreational vehicles such as travel trailers, it is up to the party making an application under the Act to show that a tenancy agreement exists. In addition to any relevant considerations above, and although no one factor is determinative, the following factors would tend to support a finding that the arrangement is a license to occupy and not a tenancy agreement:

- *The manufactured home is intended for recreational rather than residential use.*
- *The home is located in a campground or RV Park, not a Manufactured Home Park.*
- *The property on which the manufactured home is located does not meet zoning requirements for a Manufactured Home Park.*
- *The rent is calculated on a daily basis, and G.S.T. is calculated on the rent.*
- *The property owner pays utilities such as cablevision and electricity.*
- *There is no access to services and facilities usually provided in ordinary tenancies, e.g. frost-free water connections.*
- *Visiting hours are imposed.*

As stated, the onus is on the applicant to submit sufficient evidence to establish that the *Act* applies to the claim. Section 2(1) of the *Act* states the following:

2 (1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, manufactured home sites and manufactured home parks.

Based on the testimony and evidence provided by the applicants, I am not satisfied that the *Act* applies to this matter. I do not have evidence before me of a full tenancy agreement that might provide more details, or any information that would indicate that the property was zoned as a manufactured home park. I also find that a deposit and yearly payment are not indicative of a tenancy under the *Act* as well as the applicants' testimony that no services were available on the property. Therefore, I find that I do not have jurisdiction over this matter.

Conclusion

The *Manufactured Home Park Tenancy Act* does not apply to this matter and therefore I decline jurisdiction.

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: May 1, 2019

Residential Tenancy Branch