



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MT, CNR

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*) and the *Manufactured Home Park Tenancy Act*. The landlord applied for:

- an order of possession for unpaid rent pursuant to section 55.

The tenant applied for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 59;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 39.

Both parties attended the hearing via conference call and provided testimony. The landlord stated that he served the tenant with the notice of hearing package and the submitted documentary evidence by posting the materials to the door. This service is not provided for under the Act. However, reasons provided below state why I may not dismiss this application with leave to reapply.

Preliminary Issue(s)

Extensive discussions between the parties regarding jurisdiction revealed that the landlord is applying under the Residential Tenancy Act and the tenant is applying under the Manufactured Home Park Tenancy Act. The landlord stated that he would have benefited from the assistance of a Korean Translator, but did not provide one. Repeated discussions over a 46 minutes period was difficult due to the landlord's understanding of English. As a result the continued efforts revealed that the landlord

has argued that the Residential Tenancy Branch does not have jurisdiction to hear either the landlord's or the tenant's applications. The landlord also continued to have difficulty understanding the Arbitrator's questions and his ability to effectively communicate were hampered.

The landlord has argued that this is a recreation park and campground and that the Residential Tenancy Act and the Manufactured Home Park Tenancy Act do not apply. The landlord stated that there is no tenancy agreement. The landlord has referred to a "Registration" form which indicates when the tenant arrives and when they expect to leave.

The tenant provided testimony stating that she has resided at this location for just over one year on a month-to-month basis for \$490.00 per month. The tenant confirmed that there was no tenancy agreement.

The landlord stated that he had applied for two applications for which one in which the Residential Tenancy Branch had ruled that there was jurisdiction. The landlord stated that when he applied for both he did not understand what to do.

The tenant has stated that she owns the trailer/home and rents the pad it sits on.

Section 2 of the Manufactured Home Park Tenancy Act provides that the Act applies to tenancy agreements, manufactured home sites and manufactured home parks. Section 1 of the Act provides as follows:

"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;

"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; and

"tenancy agreement" means 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.

Based on the Landlord's evidence of no tenancy agreement and that the trailer/home is occupying a site that is not in a manufactured home park I find that the Act does not apply to the dispute and I dismiss the applications filed by both parties.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 02, 2019

Residential Tenancy Branch