



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution by Direct Request that was made on May 22, 2019, and adjourned to a participatory hearing. This hearing was convened pursuant to the Applicant's Application seeking the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- an order of possession for unpaid rent;
- a monetary order for unpaid rent; and
- the return of the filing fee.

The Applicant, the Applicant's Representative, J.P., and the Respondent attended the hearing at the appointed date and time, and provided affirmed testimony.

The Applicant testified that he served his Application and documentary evidence package to the Respondent in person on May 30, 2019. The Respondent confirmed receipt. The Respondent testified that he did not submit any documentary evidence in preparation for this hearing. Pursuant to Section 81 and 82 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

Preliminary Matters - Jurisdiction

According to Section 2 of the MHPTA; the *Act* applies to tenancy agreements, manufactured home sites and manufactured home parks. A tenancy agreement under the MHPTA does not include a license to occupy.

The Manufactured Home Park Tenancy Act does not apply to an occupation of land that under the common law would be considered a license to occupy. A license to occupy is a living arrangement that is not a tenancy.

Section 1 of the *Manufactured Home Park Tenant Act* outlines several definitions which are important to consider when determining if the *Act* applies to this situation.

A **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.

A **manufactured home** means a structure whether or not ordinarily equipped with wheels that is designed, constructed or manufactured to be moved from one place to another by being carried and used or intended to be used as a living accommodation.

Section 2 of the Residential Tenancy Act stated that the *RTA* applies to tenancy agreements, rental units and other residential property.

In this case, the parties agree that they entered into an agreement on March 28, 2008 that the Respondent would rent a portion of the Applicant's land. The parties agreed that the Respondent built a structure, which he owns, and that it cannot be moved.

I find that the arrangement does not meet the definition of a mobile home as the Respondent's structure was not designed, constructed or manufactured to be moved from one place to another.

I further find that the arrangement does not meet the definition of a mobile home park site as the portion of land being rented by the Respondent is not intended to be rented for the purpose of being occupied by a mobile home.

As the Tenant owns the structure he has built, I find that the *RTA* is also inapplicable.

I find that it is more likely than not that the parties have entered into a license to occupy a portion of land, therefore I decline jurisdiction to hear the matter. The parties should seek legal advice on which court or other forum may help them resolve this dispute.

Conclusion

I decline to proceed due to a lack of jurisdiction, and the Application is dismissed without leave to reapply. The parties should seek legal advice from their respective lawyers as to how to resolve this dispute.

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: July 12, 2019

Residential Tenancy Branch