



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CEDAR GROVE RV PARK AND
CAMPGROUND and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction and Preliminary and Procedural Matters

This hearing was convened as the result of the applicant's application for dispute resolution under the Manufactured Home Park Tenancy Act (the "Act"). The applicant applied for an order cancelling the landlord's One Month Notice to End Tenancy for Cause.

After a review of the evidence submitted prior to the hearing, I determined it was necessary to decide whether the subject property was a manufactured home site within a manufactured home park to which the Act applies.

Issue(s) to be Decided

Does the Act apply to this dispute and do I have jurisdiction to decide this dispute?

If so, is the applicant entitled to an order cancelling the landlord's One Month Notice to End Tenancy for Cause?

Background and Evidence

The parties submitted a copy of a document titled "Extended Stay Agreement (named) RV Park and Campground" ("Agreement").

In response to my inquiry, the applicant confirmed that she pays a daily rent for the site, and that the respondents provide utilities for her 5h wheel that is parked on the site. The applicant states that the residents of the RV park were informed that beginning in September, they would be responsible for their individual hydro costs.

The respondents submitted that the applicant's 5th wheel was an RV, was parked at their RV and campground, that the applicant could leave at any time and that she was charged a daily rate for rent.

The respondents stated further that the RV park and campground is not zoned for a manufactured home park and that they had not decided if the residents would be charged individually for their hydro. If that turned out to be the case, the hydro would still be in the RV park and campground's name.

The Agreement states that mail had to be delivered somewhere other than the campground and that the RV and campground provides basic cable, Wi-Fi, water, power and sewer.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

Where there is a question of jurisdiction, the applicant bears the burden to prove the Act applies.

Residential Tenancy Branch ("RTB") Policy Guideline 9 – Tenancy Agreements and Licenses to Occupy sets out 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.”

Based on the evidence before me, and the consideration above, I find there is insufficient evidence to support that there is a landlord and tenant relationship between the applicant and the respondents.

I find that based on the utilities being provided under the Agreement, that rent is paid on a daily rate, that the applicant could move her RV at any time, and that the park does not meet the zoning requirements for a Manufactured Home Park, this arrangement is a license to occupy and not a tenancy. Therefore, I find that I do not have jurisdiction to hear this dispute under the Act.

Conclusion

I have determined that this matter relates to a license to occupy and not a tenancy.

Therefore, I decline to hear this application due to lack of jurisdiction under the Act.

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 20, 2019

Residential Tenancy Branch