



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR ET FF

Introduction

This hearing dealt with an application pursuant to the *Manufactured Home Park Tenancy Act* (the “MHPTA”) for:

- an order of possession for unpaid rent pursuant to section 48;
- an early end to this tenancy and an order of possession pursuant to section 49;
- authorization to recover the filing fee for this application pursuant to section 65.

The hearing was conducted by conference call. The respondent did not attend this hearing, although I waited until 10:00 a.m. to enable the respondent to connect with this teleconference hearing scheduled for 9:30 a.m. The applicant attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The applicant testified that on July 25, 2019, he personally served the respondent with a copy of the Application for Dispute Resolution and Notice of Hearing.

Based on the above evidence, I am satisfied that the respondent was personally served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 81 of the *MHPTA*. The hearing proceeded in the absence of the respondent.

Issues

Do I have jurisdiction to make a decision on the application before me?

If yes, is the applicant entitled to an order of possession?

Background and Evidence

The rental unit is a trailer in the backyard of the respondent's home. The applicant advised that the trailer is in fact a camper equipped with wheels. The applicant himself is a tenant who is renting a house on $\frac{3}{4}$ of an acre. The applicant submits that he was just helping out a friend of a friend and agreed for him to park his camper on the property for a rent of \$700.00 per month. The applicant submits that he served the respondent with a 10 Day Notice to end Tenancy as the respondent has not paid any rent since moving on to the property.

Analysis

Before making any finding on the merits of the claim, I must determine if I have jurisdiction to make a decision on the application before me.

Section 2 of the *MHPTA* stipulates that subject to section 4 [what this Act does not apply to] the *Act* applies to tenancy agreements, manufactured home sites and manufactured home parks.

Under section 1 of the *MHPTA*, a "tenancy agreement" is defined as 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.

First, I find the applicant incorrectly filed an application under the *MHPTA*. The applicant is not operating a manufactured home park nor is the respondent occupying a manufactured home on a manufactured home site. As such, this application should have been filed under the *Residential Tenancy Act* (the "*RTA*").

Pursuant to section 2 of the *RTA*, the Act applies to **tenancy agreements**, rental units and other residential property.

A tenancy agreement is defined under section 1 of the *RTA* as follows:

"tenancy agreement" means an agreement, whether written or oral, express or implied, **between a landlord and a tenant** respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

Landlord is defined under section 1 of the *RTA* as follows:

"landlord", in relation to a rental unit, includes any of the following:

...

- (c) a person, **other than a tenant occupying the rental unit**, who
 - (i) is entitled to possession of the rental unit, and
 - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;

The definition of a tenancy agreement under the *RTA* implies that it is an agreement between a landlord and a tenant. The definition of landlord under the Act specifically excludes a **tenant occupying the rental unit**.

In this case, the living arrangement in question is not a tenancy agreement between a landlord and a tenant as defined under the *RTA*. Rather, the agreement is between the applicant, who is himself a tenant, and another occupant permitted on the property by the applicant. The Act does not cover these types of agreements or living arrangements.

Accordingly, I do not have jurisdiction under either the *MHPTA* or the *RTA* over this matter. The application is dismissed in its entirety without leave to reapply.

Conclusion

The application is dismissed without 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 both the *Manufactured Home Park Tenancy Act* and the *Residential Tenancy Act*.

Dated: September 19, 2019

Residential Tenancy Branch