



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PORT4HOMES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on November 17, 2019 (the "Application"). The Tenant applied for the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- an order that the Landlord comply with the *Act*, Regulations, or Tenancy Agreement; and
- an order granting the recovery of the filing fee.

The Tenant as well as the Landlord's Agents, J.W., and M.M. attended the hearing at the appointed date and time and provided affirmed testimony.

The Tenant testified that she served her Application and documentary evidence package to the Landlord, however, could not recall the date of service. J.W. confirmed receipt on November 22, 2019. J.W. stated that he served a copy of the Landlord's documentary evidence by registered mail on December 30, 2019. The Tenant confirmed receipt. Pursuant to Section 81 and 82 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord comply with the *Act*, Regulations, or Tenancy Agreement, pursuant to Section 55 of the *Act*?
2. If successful, is the Tenant entitled to the return of the filing fee, pursuant to Section 65 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on April 15, 1991. Currently, the Tenants pay a pad rental fee in the amount of \$530.69 which is due to the Landlord on the first day of each month. The Landlord provided a copy of the tenancy agreement in support.

The Tenant testified that she is seeking an order that the Landlord comply with the *Act*, tenancy agreement and regulations, in relation to the Tenant being permitted to move her adult son into her manufactured home. The Tenant stated that she currently resides with her elderly husband in the manufactured home and that they are in need of assistance with mobility and performing daily tasks. The Tenant stated that her son would be able to offer care and support, as well as contribute financially. The Tenant stated that the Landlord has denied her request to have him living in the manufactured home.

J.W. responded by stating that the Landlord has concerns regarding the Tenant's son residing in the manufactured home. J.W. stated that the Tenant's son has a lengthy criminal history and that he poses a risk to breaching the quiet enjoyment of those who occupy the manufactured home park. J.W. provided a copy of the Tenant's son criminal history report in support.

J.W. stated that during his most recent visit on September 10, 2019, the Tenant's son was arrested at the Tenant's home and taken into custody. J.W. was not provided with any details surrounding the arrest, however, he feels as though it would not be appropriate to have the Tenant's son live in the manufactured home park. J.W. stated that the Landlord cautioned the Tenant on September 10, 2019 that the Tenant's son was not welcome on the property.

The Tenant responded by stating that she feels as though her son has made some positive changes in his life and that she doesn't anticipate that he will cause a breach to the quiet enjoyment that everyone is entitled to. The Tenant stated that the incident which took place on September 10, 2019 was a result of her son calling police himself.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

According to Section 24 (1) of Act;

A landlord must not unreasonably restrict access to a manufactured home park by (a) the tenant of a manufactured home site that is part of the manufactured home park, or (b) a person permitted in the manufactured home park by that tenant.

The Landlord provided a copy of the tenancy agreement which was signed by both parties and lists the Tenant's son (A.G.) as an occupant who is permitted to occupy the Site. I accept that the agreement between the parties allows up to four individuals to occupy the Site. During the hearing, the parties agreed that the Site is currently being occupied by the Tenant and her husband. I find that the Tenant's son moving back into the Site would not exceed the limit of occupants permitted under the agreement and that he has been previously named as a lawful occupant.

In light of the above, I find that the Landlord is in breach of the tenancy agreement as well as Section 24 of the Act by not permitting the Tenant's son to occupy the manufactured home. As such, I order the Landlord to permit the Tenant's son (A.G.) access to the Site.

The Tenant is cautioned that the Landlord is at liberty to end the tenancy for cause, should the Tenants or the Tenant's son not comply with the *Act*, regulations or agreement while residing on Site, in accordance with Section 40 of the *Act*.

As the Tenant was successful in her Application, I find that she is entitled to the return of the \$100.00 filing fee, pursuant to Section 65 of the *Act*. I order that the Tenant deduct the amount of \$100.00 from one (1) future rent payment.

Conclusion

The Landlord has breached Section 24 of the *Act* by restricting the Tenant's son from occupying the manufactured home. I order the Landlord to permit the Tenant's son (A.G.) access to the Site.

I authorize the Tenant to deduct \$100.00 from one (1) future rent payment.

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: January 14, 2020

Residential Tenancy Branch