



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 21063171

In the matter of the *Manufactured Home Park Tenancy Act*, SBC 2002, c. 77, as amended

Between

BENOIT CHARBONNEAU, Tenant,

Applicant

And

CLEARANCE ANSLEY, Landlord,

Respondent

Regarding a manufactured home site at: BURNS AVENUE, C, CANAL FLATS, BC

Date of Hearing: February 20, 2020, by conference call.

Date of Decision: February 20, 2020

Attending:

For the Landlord: Clearance Ansley
Karen Kolibar (did not participate)

For the Tenant: Benoit Charbonneau



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DECISION

Dispute Codes ERP FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on January 20, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- an order requiring the Landlord make emergency repairs for health or safety reasons; and
- an order granting recovery of the filing fee.

The Tenant and the Landlord attended the hearing at the appointed date and time and provided affirmed testimony.

The Tenant testified the Landlord was served with the Notice of Dispute Resolution Proceeding package by registered mail. The Landlord acknowledged receipt. Pursuant to section 71 of the *Act*, I find these documents were sufficiently served on the Landlord for the purposes of the *Act*.

The Landlord testified that documentary evidence was submitted in response to the Application. During the hearing, I checked the previous dispute management system (CMS) and the new dispute management system (DMS). Although it appears the evidence was not received at the Residential Tenancy Branch, I elected to proceed with the hearing. The burden is on the Tenant to provide sufficient evidence to establish an entitlement to the relief sought. As described in greater detail below, I find the Tenant has not provided sufficient evidence to establish he is a tenant under the *Act*. Accordingly, I find there is no prejudice to the Landlord in not considering the evidence the Landlord claimed was submitted.

The parties were provided with a full opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer to only the relevant facts and issues in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order requiring the Landlord make emergency repairs for health or safety reasons?
2. Is the Tenant entitled to recover the filing fee?

Background and Evidence

The Tenant testified that the manufactured home park was owned by his uncle until his death in 2019. The Tenant confirmed he lived in various units at the park but did not pay pad rent. He testified that he managed the park and provided some caretaking services. The Tenant was his uncle's power of attorney. The Landlord named in the Application represents the property manager retained by the Estate of the Tenant's deceased uncle on January 1, 2020.

The Tenant requests an order requiring the Landlord to complete a construction project that would provide electricity to a new unit moved to the park on October 27, 2019. The Tenant testified he was in the process of completing the hookup of the unit but that the executors of the Estate of his deceased uncle have not agreed to complete the final steps of the project. The Tenant claims he owns the unit and intends to live in it. The Tenant submitted the following documents in support of the Application:

- a copy of a Power of Attorney document (11 pages)
- a partial screen print of a BC Hydro invoice dated December 17, 2019 (1 page)
- a photograph of a BC Hydro pole
- a screen print of a BC Hydro invoice dated December 17, 2019 (1 page)
- a photograph of a metal plate attached to a wooden pole.

The Landlord submitted the Tenant is not a tenant under the *Act* but described him as a squatter. The Landlord noted that the Tenant did not submit a tenancy agreement and has never paid pad rent. Further, the Landlord submitted that the executors of the Estate of the Tenant's deceased uncle are entitled to make decisions relating to the continuation or discontinuation of any construction project on the property and have decided not to continue with the hookup of the unit at this time.

Analysis

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

Section 2 of the *Act* confirms the *Act* applies to tenancy agreements, manufactured home sites, and manufactured home parks. In this case, the Tenant claims he is a tenant under the *Act*. However, for the following reasons, I find there is insufficient evidence before me to conclude the Tenant is a tenant for the purposes of the *Act*:

- the Tenant does not pay pad rent,
- the Tenant has lived in a number of units in the park,
- the Tenant did not submit a tenancy agreement into evidence,
- the familial relationship suggests there is no tenancy but that the Tenant's uncle was permitting the Tenant to occupy units on the manufactured home site as they became available,
- the rental unit was brought onto the manufactured home park site on or about October 27, 2019 has never been connected to electric services.

Accordingly, I find the Application is dismissed for lack of jurisdiction. The Tenant has not established that his relationship with the Landlord is a landlord/tenant relationship. Therefore, it has not been necessary to consider the Tenant's request for emergency repairs.

Conclusion

The Tenant's Application is dismissed for lack of jurisdiction.

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: February 20, 2020

Residential Tenancy Branch