



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ZAMANI ZAM ENTERPRISES
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Other

Introduction

On July 13, 2020, the Tenant submitted an Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* ("the Act") seeking an order that the Landlord deal with manufactured home park rules and a noise complaint.

The matter was scheduled as a conference call hearing. The Landlord and Tenant appeared at the hearing. The Tenant was assisted by an advocate. The hearing process was explained, and the participants were asked if they had any questions. The parties testified that they exchanged the documentary evidence before me. Both parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form and make submissions to me.

In this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue to be Decided

- Is the Landlord obligated under the Act to take action on the Tenant's complaint?

Background and Evidence

The parties testified that the tenancy began in July 2002 and is on a month to month basis. The Tenant currently pays pad rent in the amount of \$344.40 each month. Rent is due on or before the first day of each month.

The Tenant's advocate submitted that the Tenant is feeling frustrated and he wants the Landlord to enforce park rules regarding parking of vehicles. The Tenant is feeling

stressed about exiting his unit onto the main road. The Tenant provided photographs which he submits shows vehicles that block his view.

The Tenant's advocate submitted that some occupants speed in the park and there are visibility hazards present. The Tenant's advocate submitted that the Tenant was recently the victim of a hit and run while driving his vehicle. The Tenant's advocate submitted that the Tenant had a stroke and gets frustrated and loud and this can leave a bad impression.

The Tenants advocate also submitted that the Tenants quiet enjoyment of tenancy is being affected by an air conditioning unit placed at the side of a manufactured home. The Tenant stated that he cannot enjoy sitting in his yard because of the air conditioner. The Tenant provided testimony that the air conditioner unit has been there for 6 -7 years. He testified that when it shuts off and kicks back on it is very loud.

When asked whether or not he has spoken to his neighbor about the noise, he replied no. When asked whether he spoke to the park manager about the air conditioner, he replied no. The Tenant provided testimony that he does not know if other residents in the park have air conditioner units.

In response to the Tenant's testimony, the Landlord testified that the Tenant has never raised the issue of a noisy air conditioner. The Landlord testified that there are many manufactured homes in the park that have air conditioner units located outside the homes. The Landlord testified that she has not received any noise complaints regarding air conditioner units from other residents of the park.

The Landlord testified that the Tenant's behaviour has gotten bad lately with him yelling and screaming at other residents and the Landlord. The Landlord testified that the Tenant states he cannot see while backing out of his unit and this could be improved by the Tenant choosing to back into his lot or by backing out of his driveway slowly. The Landlord testified that the tree in his own lot obstructs his view from backing out.

The Landlord testified that terms of tenancy can be different for Tenants living in the park. The Landlord testified that there are Tenants that have lived in the manufactured home park for 32 years and there have been agreements reached and terms established over the years with different occupants of the park.

Analysis

Section 22 of the Act provides that a Tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the manufactured home site subject only to the landlord's right to enter the manufactured home site in accordance with section 23 [landlord's right to enter manufactured home site restricted];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Section 32 of the Act states:

In accordance with the regulations, a park committee, or, if there is no park committee, the landlord may establish, change or repeal rules for governing the operation of the manufactured home park.

(2) Rules referred to in subsection (1) must not be inconsistent with this Act or the regulations or any other enactment that applies to a manufactured home park.

(3) Rules established in accordance with this section apply in the manufactured home park of the park committee or landlord, as applicable.

(4) If a park rule established under this section is inconsistent or conflicts with a term in a tenancy agreement that was entered into before the rule was established, the park rule prevails to the extent of the inconsistency or conflict.

With respect to the issue quiet enjoyment, I find that the Tenant did not raise the noise issue with the Landlord prior to the hearing. The Landlord has not had an opportunity to look into the issue to determine whether or not the air conditioner is operating normally or is malfunctioning and creating unreasonable noise.

The Tenant has provided insufficient evidence that he is suffering a loss of quiet enjoyment due to an air conditioner that is malfunctioning and creating unreasonable noise. The Tenants claim on this issue is dismissed.

With respect to park rules regarding the parking of vehicles, I find that the Landlord has the authority to establish, change and repeal park rules. It is up to the Landlord to choose whether or not to enforce the park rules with consideration to whether residents have established specific terms of tenancy over the years or have terms that are grandfathered. I note that the Tenant did not provide a copy of the park rules.

With respect to use of common areas for reasonable and lawful purposes, free from significant interference, I am not persuaded by the Tenant that the Landlord has breached the Act.

The Tenant's application is dismissed in its entirety.

Conclusion

Tenant's application for an order that the Landlord deal with manufactured home park rules and a noise complaint was not successful and is dismissed.

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: September 2, 2020

Residential Tenancy Branch