



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was scheduled for 1:30 p.m. on today's date, via teleconference call, upon receipt of a Tenant's Application for Dispute Resolution filed under the Manufactured Home Park Tenancy Act. The applicant is seeking monetary compensation from the respondent.

Both parties appeared or were represented at the hearing.

I confirmed delivery of hearing materials and evidence upon each other.

Preliminary Issue – Jurisdiction

The respondent's raised the issue of jurisdiction shortly after the hearing commenced.

I informed the parties that my jurisdiction is limited to disputes between a landlord and tenant pertaining to a tenancy that formed under the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act*. Further, where jurisdiction is called into question, the applicant bears the burden to prove a tenancy formed under one of these two Acts.

The respondent is of the position that a tenancy did not form between the parties for the subject property and that the applicant had a license to occupy an RV site in an RV park/campground for a short period of time. The respondent provided documentation in an effort to demonstrate the respondent operates an RV park/campground and the applicant had a license to occupy an RV site.

I noted that in the details of cause, the applicant indicated she had rented a site from the respondent on a monthly basis and had a fifth wheel trailer on the site; however, her

own documentary evidence showed payment of fees for days at a time, at a daily rate, and the fees were subject to GST.

I asked the applicant whether she was prepared to demonstrate that a tenancy formed and the *Manufactured Home Park Tenancy Act* applies. The applicant responded that she was not prepared to do so and she had filed this Application for Dispute Resolution after reading articles and speaking to various clerks at various dispute resolution forums; however, the applicant did not indicate she had obtained information concerning jurisdiction from the Residential Tenancy Branch – which administers the *Manufactured Home park Tenancy Act*.

I find a preliminary review of the evidence provided by both parties calls into question as to whether the *Manufacture Home Park Tenancy Act* applies; however, it was apparent that the applicant was unaware of her burden to demonstrate that the *Manufactured Home Park Tenancy Act* applies to her agreement with the respondent and she had not come prepared to meet that burden.

In light of the above, I decline to accept that I have jurisdiction to resolve this matter and I do not proceed further; however, I give the applicant leave to reapply if after doing further research she is of the position and is prepared to demonstrate the *Manufactured Home Park Tenancy Act* applies.

In parting, I suggested the applicant obtain further information concerning jurisdiction from the Residential Tenancy Branch and obtain her own legal advice before re-filing.

Conclusion

The applicant was not prepared to proceed to demonstrate the *Manufactured Home Park Tenancy Act* applies to her agreement with the respondent and I declined to accept jurisdiction and resolve this matter. However, the applicant is given leave to reapply should she subsequently determine the Act applies and she is prepared to demonstrate that.

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: November 27, 2020

Residential Tenancy Branch