



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was scheduled to deal with a Landlord's Application for Dispute Resolution. The applicant is seeking an order to end the tenancy early and obtain an Order of Possession under section 49 of the *Manufactured Home Park Tenancy Act* ("the Act").

Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

At the outset of the hearing, I confirmed the parties had exchanged their respective hearing materials upon each other, although I determined that documents were exchanged late, on December 11, 2020 and December 14, 2020. Both parties indicated various reasons for submitting and serving materials late, including being unfamiliar with the dispute resolution process.

I also explored another preliminary issue, which respect to jurisdiction, as the applicant indicated conflicting positions with respect to whether the Act applies in his written materials.

The respondent is of the position the Act applies and he had filed his own Application for Dispute Resolution (file number referenced on the cover page of this decision) which is set for hearing in January 2021.

The applicant's position was less clear. The applicant initially took the position the Act did not apply, he also took the position he was uncertain as to whether the Act applied, and he stated at one point the Act did apply; however, the applicant eventually settled on a position that the Act does not apply to arrangement for the respondent's

occupancy of the subject site. The applicant explained that he made this Application for Dispute Resolution because he was “told” he had to by an Information Officer with the Residential Tenancy Branch.

The applicant stated he intends to appear for the January 2021 hearing set to deal with the respondent’s Application for Dispute Resolution and present evidence to demonstrate that the Act does not apply.

With respect to the application before me, the applicant has made a request for an Order of Possession under the *Manufactured Home Park Tenancy Act* but takes the position that the Act does not apply. An applicant must be prepared to demonstrate that he is entitled to the remedy he seeks. In taking the position that the Act does not apply, I find the applicant is unable to demonstrate he is entitled to an Order of Possession under the Act. Therefore, I decline to give further consideration to the application before me and I dismiss it without prejudice.

To be clear, I make no finding as to whether the Act applies or not with this decision. Should it be determined that the Act does apply pursuant to the matter scheduled for hearing in January 2021, the applicant is at liberty to pursue ending the “tenancy” in accordance with the Act and make another Application for Dispute Resolution.

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: December 17, 2020

Residential Tenancy Branch