



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC FFT

Introduction

This hearing was reconvened from an adjourned hearing originally scheduled for December 21, 2020. The adjournment was granted pursuant to Rules 7.16 and Rule 7.9 of the RTB *Rules of Procedure* in order for materially affected tenants in the manufactured home park to be notified of the dispute resolution hearing, and have the opportunity to participate, either by way of written submissions or sworn testimony.

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 55; and
- **authorization to recover the filing fee for this application, pursuant to section 65.**

DK, legal counsel, and LM, the park manager, appeared for the landlord. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenant acknowledged receipt of the written evidence submitted by the landlord for this hearing, which included the written statements from tenants in the Manufactured Home Park. Both parties confirmed that they were ready to proceed with the hearing.

Issues(s) to be Decided

Is the tenant entitled to an order that the landlord comply with section 15 of the *Manufactured Home Park Tenancy Regulation*?

Is the tenant entitled to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

The tenant has been residing in this Manufactured Home Park since 2012. Monthly pad rental is set at \$665.47, payable on the first of each month. The tenant filed this application as he had made a request of the landlord pursuant to section 15 of the *Manufactured Home Park Tenancy Regulation* for the landlord to supply a list of the names and addresses of tenants in the Manufactured Home Park for the purpose of giving notice in relation to the establishment of a park committee under section 31 of the *Act*.

The landlord's park manager, LM, testified that upon receiving this request, he had canvassed with the tenants in the Manufactured Home Park, and found that the majority of the tenants were opposed to the provision of their information to the tenant. At the last hearing, legal counsel for the landlord confirmed that the landlord has not provided the tenant with the list of names and addresses considering this feedback.

The tenant filed an application for the landlord to comply with section 15 of the *Manufactured Home Park Tenancy Regulation*, and the landlord requested an adjournment pursuant to Rules 7.16 and Rule 7.9 of the *RTB Rules of Procedure* in order for materially affected tenants in the manufactured home park to be notified of the dispute resolution hearing, and have the opportunity to participate, either by way of written submissions or sworn testimony.

I had allowed the landlord's request for an adjournment, and ordered that the landlord serve all affected tenants with a copy of the Interim Decision and provide them with the Notice of Reconvened Hearing with calling instructions. I also ordered that the landlord serve the affected tenants with a copy of the tenant's original Application for Dispute Resolution and dispute resolution process fact sheet (RTB-114) provided by the tenant.

I made an order that the materially affected tenants may participate in the reconvened hearing by way of a written statement, or by teleconference call during the scheduled hearing. While none of the tenants attended this teleconference call, the landlord submitted a package containing the written statements of the tenants who had decided to respond through that method.

The tenant confirmed that he is still requesting that the landlord comply with section 15 of the *Manufactured Home Park Tenancy Regulation*, and provide him with the names

and addresses of the tenants in the Manufactured Home Park. The tenant testified that the *Act and Regulation* allows for the provision of the list without the prior consent of the tenants, and that he had no ulterior motive for the request of the tenant's names and addresses other than for the establishment of the park committee. The tenant testified that his request complies with the *Act and Regulation*, and he would continue to abide by all rules and legislation. The tenant pointed out that despite the concerns expressed in the letters, the tenant was not requesting for, nor was the landlord obligated to provide, any personal information other than the names and addresses of the tenants.

LM, manager for the Manufactured Home Park, testified that of the 34 letters submitted, 31 were of the tenants expressed that they were opposed to the landlord's provision of their personal information, and 3 were not opposed or did not care. In cross-examination, the tenant expressed concern about whether LM had clearly communicated to the tenants what the tenant's request was, and the landlord's obligations under the Act and Regulation. LM responded that he had informed the tenants that the tenant wanted to form a park committee and required the tenant's information, such as their pad number, phone number, and names.

The tenant expressed concern about the contents of the letters, which referenced the provision of personal information including phone numbers. The tenant noted one particular objection that references "an earlier situation" and a "Dispute Resolution Hearing for that matter". The tenant testified that he was concerned about what LM had communicated to the tenants in the Manufactured Home Park.

Counsel for the landlord confirmed that the landlord complied with the previous orders made in the Interim Decision dated December 21, 2020, and which was amended on December 24, 2020. Counsel confirmed that LM had canvassed with the tenants in response to the initial request by the tenant, and distributed the documents after the last hearing held on December 21, 2020.

Counsel noted that the landlord wanted to do their due diligence, and was aware of their obligations under both the *Manufactured Home Park Tenancy Act and Regulation*, as well as section 18(1)(i) of the *Personal Information Protection Act* which states that "an organization may only disclose personal information about an individual without the consent of the individual, if the disclosure is for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of personal information".

Analysis

The tenant filed this application for the landlord to comply with section 15 of the *Manufactured Home Park Regulation*, which states:

Notice

- 15** (1) A tenant or a member of a park committee may request that a landlord supply a list of the names and addresses of tenants if the request is for the purpose of giving a notice under this Part.
- (2) The landlord may charge a maximum of \$10 for the list of tenants.
- (3) The landlord must supply the list within 2 weeks of receiving the request.

It was confirmed that the landlord has not provided the tenant with this list after canvassing with the tenants in the Manufactured Home Park, and the majority were opposed to the provision of their personal information to the tenant.

I have reviewed the statements submitted by this hearing from the materially affected tenants, and have made note of their concerns. I find that the majority of the tenants responded by way of written statements, and the majority of these tenants were opposed to the provision of their personal information. Many of the tenants noted that their information such as their phone numbers were not listed, and they expressed concerns about the breach of their privacy and regard for their wishes to not be included.

Regardless of the reasons for why these tenants are opposed to the provision of their personal information, I find that the majority of the tenants were clear in their wishes and concerns. In consideration of the tenant's request, I do note that although the letters referenced the provision of personal information such as phone numbers or email addresses, the tenant's request was for only the names and addresses, as allowed under section 15 of the *Regulation*.

Matters concerning the disclosure of personal information, especially without the consent of the affected parties, should not be taken lightly. I find that in this case, the landlord has taken particular care and attention to address this with respect to the tenant's request and the landlord's obligations under the relevant legislation. In making my decision, I have made note of the affected tenants' concerns and wishes as expressed in their letters, and through the testimony of the park manager. In

consideration of the tenant's request, I do not find that the evidence supports any ulterior motive on the tenant's part for making the request for the names and addresses of the tenants. I find the tenant's testimony that he wishes to establish a park committee to be credible. Section 31 of the *Act* states that "in accordance with the regulations, the landlord and tenants of a manufactured home park may establish and select the members of a park committee."

As noted above, the Regulation sets out that the landlord must supply the tenant with a list of names and addresses of these tenants within 2 weeks of receiving this request, if the request is for the purpose of giving a notice under Part 3 of the Regulations. In this case, I find that the tenant has exercised their right under the *Act* and *Regulation* to request this list, and the landlord is required to provide the tenant with this list within 2 weeks of receiving the request. On this basis, I order that the landlord comply with section 15 of the *Manufactured Home Park Regulation* and supply the tenant with a list of names and addresses of the tenants in the Manufactured Home Park upon receipt of a maximum of \$10.00 from the tenant for provision of this list if required by the landlord, on or before April 16, 2021. I have allowed the landlord time to comply with the additional provisions below.

I have noted the concerns brought up by the affected tenants in their statements, and although I note that their consent or approval does not change the obligations of the landlord to supply the list to the tenant, I do, however, emphasize that the affected tenants' privacy concerns should be noted, and that only the tenants' names and addresses be provided on this list. I order that the above list be provided to the tenant only for the purposes of establishing a park committee, and I further order that the affected tenants may make a written request to the landlord that the landlord provide their first initial and last name in lieu of their full names. For example, "B. Marley" instead of "Barbara Marley". I order that the landlord inform the affected tenants of this decision and order, and that they may make this request on or before April 9, 2021 to include only their first initial and last names instead of their full names. I order that no additional personal information such as phone numbers or email addresses be provided, other than what the *Act* and *Regulation* allows.

I allow the tenant to recover the filing fee for this application. I allow the tenant to implement the monetary award by reducing a future monthly rent payment until the amount is recovered in full.

Conclusion

I order that the landlord comply with section 15 of the *Manufactured Home Park Regulation* and supply the tenant with a list of names and addresses of the tenants in the Manufactured Home Park upon receipt of a maximum of \$10.00 from the tenant for provision of this list if required by the landlord, on or before April 16, 2021.

I order that the list be provided to the tenant only for the purposes of establishing a park committee, and I further order that the affected tenants may make a written request to the landlord that the landlord provide their first initial and last name in lieu of their full names.

I order that the landlord inform the affected tenants of this decision and order, and that they may make this request on or before April 9, 2021 to include only their first initial and last names instead of their full names.

I allow the tenant to recover the filing fee for this application. I allow the tenant to implement the monetary award by reducing a future monthly rent payment until the amount is recovered in full.

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*.

DECISION AMENDED PURSUANT TO SECTION 71(1)(A)
OF THE MANUFACTURED HOME PARK TENANCY ACT ON APRIL 16, 2021 AT THE
PLACES INDICATED IN BOLD ON PAGES 1, 5, and 6 OF THIS DECISION.

Dated: March 23, 2021

Residential Tenancy Branch