



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OLC PSF FFT

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Manufactured Home Park Tenancy Act* (Act). The tenant applied for an order directing the landlord to comply with the Act, regulation or tenancy agreement, for an order directing the landlord to provide snowplowing services and to recover the cost of the filing fee.

The tenant, an advocate for the tenant, NG (advocate), and the landlord agent, AK (agent) attended the teleconference hearing. The parties were affirmed, were given the opportunity to provide their testimony and were provided the opportunity to present any documentary evidence that was the submitted in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). Words utilizing the singular shall also include the plural and vice versa where the context requires.

Neither party raised any concerns about the service of documentary evidence. As a result, I find the parties were sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

Issues to be Decided

- Has the tenant provided sufficient evidence to support their claim under the Act?
- If yes, is the tenant entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on April 30, 2008. Under “Liability” in the tenancy agreement, it states in part:

...The Landlord is responsible to keep roads free of hazards ie. Snow removal as needed...

The tenant testified that they filed their application due to their road in the park being missed/not plowed on January 28, 2021. The tenant confirmed that there has been no snow since that date.

The agent denies that the tenant’s road was missed and presented photo evidence and snowplowing bills in support of their testimony. The landlord stated that on February 9, 2021, when they received the tenant’s application, they took a photo, which the tenant confirmed shows the road in question leading to the tenant’s site. The road appears to be plowed in the photo.

The snowplowing bills for November 2020, December 2020 and January 2021 were submitted in evidence. The dates for January 2021 snowplowing include January 4,5,6,7,12,13,17,18,21,28,30. The snowplowing bill for January 2021 was \$2,541.00 which was paid by the landlord. The landlord clarified that the snowplowing company is an external company which the landlord pays for snowplowing services. The landlord stated that they called the snowplowing company and the snowplowing company denied missing any roads in the park on any dates they provided service.

The advocate asked the agent if the road wasn’t missed, why did the agent respond about the tenant’s dog? The agent responded by stating that there was no threat made and that due to so many complaints by the tenant they found it did not warrant a response as the road was not missed and they could look outside to check.

The tenant claimed that there were several dates that their road was not plowed but could not recall any other specific dates other than January 28, 2021. The landlord stated that this application was a waste of time as the roads have all been plowed and if the tenant went outside to see the roads not plowed, why was a photo not taken for evidence?

Analysis

Based on the above, the testimony of the parties and the advocate, the documentary evidence presented and on a balance of probabilities, I find as follows.

Firstly, in the matter before me, the applicant tenant has the burden of proof. I find the tenant has failed to meet the burden of proof due to the lack of any photographic evidence to support that their road was not plowed on January 28, 2021. I also find the tenant to lack credibility as the tenant was unable to provide any other specific dates where the road was allegedly not plowed. I prefer the evidence of the agent over the tenant as I find the agent supported their testimony with invoices for snowplowing, which I find supports that the park had been plowed on the date in question, January 28, 2021.

I agree with the agent that if the road was not plowed it would only be reasonable for the tenant to have taken a photo for evidentiary purposes, which the tenant confirmed they did not do. As a result, I find the tenant's application has no merit and is dismissed in full, without leave to reapply.

As the tenant's application has been dismissed in full, I do not grant the filing fee.

Conclusion

The tenant's application has no merit and is dismissed without leave to reapply.

The filing fee is not granted.

This decision will be emailed to the tenant and the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 21, 2021

Residential Tenancy Branch