



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PROSPERO INTERNATIONAL
REALTY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ORL, FFL

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on February 10, 2021, wherein the Landlord sought an Order that the Tenant comply with the *Manufactured Home Park Tenancy Act* (the "Act"), the *Manufactured Home Park Tenancy Regulation*, the manufactured home park tenancy agreement, and the Park Rules, as well as recovery of the filing fee.

The hearing of the Landlord's Application was scheduled for 1:30 p.m. on May 7, 2021. Only the Landlord's Property Manager called into the hearing. He gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 9:51 a.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Property Manager and I were the only ones who had called into this teleconference.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Property Manager testified that they served the Tenant with the Notice of Hearing and the Application on February 19, 2021 by registered mail. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision.

Residential Tenancy Policy Guideline 12—Service Provisions provides that service cannot be avoided by refusing or failing to retrieve registered mail and reads in part as follows:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to the above, and section 83(a) of the *Act*, documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of February 24, 2021 and I proceeded with the hearing in their absence.

Issues to be Decided

1. Is the Landlord entitled to an Order that the Tenant comply with the *Act*, the *Manufactured Home Park Tenancy Regulation*, the manufactured home park tenancy agreement, and the Park Rules?
2. Should the Landlord recover the filing fee?

Background Evidence

The Landlord's representative stated that the tenancy began approximately 2002.

The nature of the Landlord's claim relates to their concerns the Tenant has failed to maintain the manufactured home park site as required.

The Landlord provided a copy of the Park Rules in evidence. Clause 1(c) of the Rules provides that the Tenant is responsible for site maintenance as follows:

(c) Site Maintenance: The Tenant must maintain the Site, the landscaping and the home in good repair and in a safe, neat, clean and sanitary condition. Maintenance of improvements is entirely the responsibility of the Tenant and the Landlord is not responsible or liable in any way for their repair, safety, construction standards, or future condition.

The Property Manager testified that the Tenant has been repeatedly warned about the condition of his manufactured home site. He further stated that the Tenant began renovating his home and building an addition in 2012 and the project is ongoing with no end in sight and an accumulation of building materials.

The Landlord sent a letter to the Tenant on February 1, 2019 regarding the addition and the completion of the renovation. The Landlord sent another letter on November 6, 2020 and January 13, 2021 again requesting that the project be completed by January 31, 2021.

Despite these requests the Tenant has failed to complete the project and has not maintained the site.

The Landlord sought an Order that the Tenant complete the renovations by no later July 31, 2021 including finishing the outside and remove all debris, scrap wood, windows and other building materials from the manufactured home park site.

Analysis

Section 13(2)(g) of the *Act* provides that a tenancy agreement may include Park Rules. Section 32 of the *Act* further provides as follows:

Park rules

- 32** (1) 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, other than a standard term or other material 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.

Section 29 of the *Regulation* provides as follows:

Disclosure

- 29** (1) Prior to a person's entering into a tenancy agreement with a landlord, the landlord must disclose in writing to that person all rules in effect at the time of his or her entering into the tenancy agreement.
- (2) Subsequent to a tenant's entering into a tenancy agreement with a landlord, the landlord must give notice in writing to that tenant of any rule at least two weeks before the rule becomes effective.

I find that the Tenant was provided with a copy of the Park Rules when entering into the tenancy agreement. I therefore find that it is a term of the tenancy agreement that the Tenant follow the Park Rules.

I accept the Landlord's Property Manager's testimony that the Tenant has failed to maintain his manufactured home site in accordance with clause 1(c) of the Rules, which requires the Tenant to maintain his site, the landscaping, and the home in good repair and in a safe, neat, clean and sanitary condition. I am also satisfied the Tenant has received both verbal and written requests that he comply with the Rules and maintain his site.

I accept the Property Manager's testimony that the Landlord's preference is to have the Tenant comply and clean up the site rather than end the tenancy. However, the Tenant is cautioned that failing to comply with this Order may result in the Landlord seeking an end to this tenancy pursuant to section 40(1)(k) of the *Act* which reads as follows:

Landlord's notice: cause

40 (1)A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(k)the tenant has not complied with an order of the director within 30 days of the later of the following dates:

(i)the date the tenant receives the order;

(ii)the date specified in the order for the tenant to comply with the order.

I therefore Order as follows:

1. By no later than July 31, 2021, the Tenant must complete the renovations to his manufactured home, site and addition, including finishing the outside and removing all debris, scrap wood, windows and other building materials from the manufactured home park site.
2. The Tenant must comply with the Park Rules and must maintain his manufactured home site, the landscaping, and the manufactured home in good repair and in a safe, neat, clean and sanitary condition.

Should the Tenant fail to comply with the above, the Landlord shall be at liberty to issue a 1 Month Notice to End Tenancy for Cause pursuant to section 40(1)(k) of the *Act*.

The Landlord is entitled to recover the filing fee from the Tenant. As such, I award the Landlord a Monetary Order in the amount of **\$100.00**. This Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

Conclusion

The Landlord's request for an Order that the Tenant comply with the *Act*, *Regulation*, tenancy agreement and Park Rules is granted. The Landlord is also entitled to recovery the filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 19, 2021

Residential Tenancy Branch