



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

This hearing dealt with the applicant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue – Jurisdiction

The applicant rents a space in the yard of a residential home to park her trailer. The applicant was unsure as to whether this arrangement would fall under the Residential Tenancy Act or the Manufactured Home Park Tenancy Act. However, I have considered the matter in a very broad term and addressed the key factors of the arrangement as noted below.

The applicant submits that she parks her “fifth wheel” on the property and that the respondent is the party that has a tenancy agreement with the landlord, not her. Both parties agree that this is a residential property and not a manufactured home park. Both parties also agree that there is no hookup for electricity, water or sewage. The applicant submits that she ran an extension cord into the house that the respondent rents for electricity, but he unplugged it in August 2021 and she wants him to plug it back in.

The respondent submits that he agreed to allow the applicant to park her trailer on the property but more as a short-term parking agreement and not a tenancy. The respondent submits that the local municipality has warned them that the trailer is not to be used on the property for occupation as it does not meet the local bylaw requirements of a manufactured home park and for health and safety reasons.

In the Manufactured Home Park Tenancy Act under section 1 of definitions some of the services or facilities that would be required are as listed:

"service or facility" includes any of the following that are provided or agreed to be provided by a landlord to the tenant of a manufactured home site:

- (a) water, sewerage, electricity, lighting, roadway and other facilities;
- (b) utilities and related services;
- (c) garbage facilities and related services;
- (d) laundry facilities;
- (e) parking and storage areas;
- (f) recreation facilities;

Both parties agreed that the area of the yard that the tenant parks her trailer doesn't have any of these services or facilities. The applicant confirmed that local bylaw enforcement has told her that their arrangement cannot continue.

In this case, I find that the applicant has the onus to provide evidence to support their application. Further, The Policy Guideline states that it is up to the party making an application under the Act to show that a tenancy exists. The applicant was very vague about timelines and details regarding their arrangement. The respondent was very definitive that it was a short-term agreement, and that the agreement is over, and that it never fell under the purvey of the Residential Tenancy Act or Manufactured Home Park Tenancy Act.

When weighing all the evidence and testimony on this matter, I find on a balance of probabilities, this living situation does not fall under the Manufactured Home Park Tenancy Act for the following reasons. The applicant has failed to provide sufficient evidence that she had exclusive use to the site, failed to provide sufficient evidence that this was her permanent residence, and failed to provide sufficient evidence that this was a long-term arrangement. The applicant has provided insufficient evidence to establish that she is a tenant living under a tenancy agreement and therefore the Residential Tenancy Act does not apply.

Conclusion

I decline jurisdiction to hear this matter; accordingly, this application is dismissed in its entirety without leave to reapply.

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: November 01, 2021

Residential Tenancy Branch