



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding No. 151 Cathedral Ventures Ltd and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT PSF OLC FFT

Introduction

This hearing dealt with an application pursuant to the *Manufactured Tenancy Act* (the "Act") for:

- A monetary award for damages and loss;
- An order that the landlord provide services or facilities;
- An order that the landlord comply with the Act, regulations or tenancy agreement;
and
- Authorization to recover the filing fee from the landlord.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate respondent was represented by its agent and park manager. The applicant represented themselves with assistance.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with the Act.

Preliminary Issue- Jurisdiction

At the outset of the hearing the respondent raised the issue of jurisdiction stating that the applicant is an occupant of the rental unit but not a party to the tenancy agreement and with no standing to bring an application for dispute resolution. The respondent submitted into evidence a copy of the Manufactured Home Park Tenancy Agreement for the dispute address indicating a different landlord and tenant. The respondent explained that they assumed the tenancy from the named landlord when they acquired the manufactured home park.

The applicant submits that they are the spouse of the tenant named on the written Tenancy Agreement, they have continuously occupied the dispute address since the start of the tenancy and there is an implied tenancy agreement between them and the current respondent landlord. The landlord's manager confirmed that they are aware that the applicant resides at the rental site.

The Act provides that a tenancy agreement may be written or oral, express or implied. I accept that there was originally an agreement between the named tenant and the previous owner of the park. Based on the undisputed evidence of the parties I find that the applicant has been an occupant of the manufactured home site and ought to have been included as a tenant under the agreement. I find that there is an implied agreement between the present parties that there is a valid and enforceable tenancy agreement which includes the respondent as the landlord and the applicant as one of the tenants of the manufactured home site.

Accordingly, I find that the applicant has standing as a tenant to bring an application for dispute resolution and that this is a tenancy as contemplated under the *Act*, over which the Branch has jurisdiction.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

Should the landlord be ordered to provide services or facilities?

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Is the tenant entitled to recover their filing fee from the landlord?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This tenancy began on February 1, 2017. The current monthly rent is \$586.30 payable on the first of each month.

The tenant's primary complaints regard the amount of the electrical utilities they are charged in the manufactured home park. The tenant believes they are being overcharged and submits into evidence various readings they have taken of their electrical usage, invoices and calculations they have made about the amount of the overcharge. The tenant also complains about an auxiliary electrical outlet which they believe should be provided as part of the tenancy agreement which has now been suspended. The tenant submitted written submissions as well as lengthy testimony detailing their dissatisfaction with the landlord.

The landlord disputes the tenant's claim in its entirety and submits that electrical services are provided under the tenancy agreement and in accordance with district standards. The landlord submits that if there are issues with the electrical or other utilities they investigate and rectify according to professional standards.

Analysis

Pursuant to Residential Tenancy Rule of Procedure 6.6 the onus lies with the applicant to establish their claim on a balance of probabilities.

Section 60 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I am not satisfied on the basis of the evidence before me that the tenant has met their evidentiary onus. I find that individually and cumulatively the tenant's submissions do

not rise beyond supposition and accusations. I find little evidence to support the tenant's belief that they have been overcharged electrical utilities. I find the photographs of their usage meter and own calculations to be insufficient to demonstrate on a balance of probabilities that there is an overcharge as claimed. I further find little evidence that the conduct or policies of the landlord are anything outside of professional standards or industry norms.

Despite the lengthy complaints of the tenant, their advocate and their assistant, I find insufficient substantive evidence to support their claim. I find the submissions of the tenant to be short of meeting their evidentiary burden on a balance of probabilities. Consequently, I dismiss the application in its entirety without leave to reapply.

Conclusion

The tenant's application is dismissed 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 *Manufactured Home Park Tenancy Act*.

Dated: December 17, 2021

Residential Tenancy Branch