



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the applicant KJ: CNR
 For the applicant JF: OPR, MNR

Introduction and Procedural Matters

This hearing was convened as a result the cross applications of the parties for dispute resolution seeking remedy under the Manufactured Home Park Tenancy Act (Act).

The applicant, KJ (KJ), applied for an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by JF.

The applicant, JF (JF), applied for an order of possession of the site pursuant to the Notice and a monetary order for unpaid rent.

The cross-applicants attended and were affirmed.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Does the Act apply to these disputes and do I have jurisdiction to decide the disputes?

If so, are the applicants entitled to the relief sought in their respective applications?

Background and Evidence

After a review of the evidence submitted prior to the hearing, I determined it was necessary to decide whether the subject property was a manufactured home site within a manufactured home park to which the Act applies.

As a result, I asked questions of each participant, beginning with the applicant.

JF said she owns approximately 3 acres and rents out some space about 100' from her home to KJ, where he parks his 5th wheel. JF provides water to the 5th wheel by way of a water hose as well as provides for the electricity, internet and cable services for KJ.

KJ confirmed that there are no permanent features such as a deck, carport, or skirting around his home.

The evidence shows that KJ moved on the property in 2020.

There was no written tenancy agreement between the parties.

There was no evidence the plot of land is zoned as a campground or a manufactured home park or that the site upon which the 5th wheel sits is equipped with water lines or sanitary waste disposal systems or other utilities.

Analysis

Where there is a question of jurisdiction, the applicants bear the burden to prove the Act applies. Tenancy Policy Guidelines 9 and 27 provide policy statements and information with respect to jurisdiction concerning recreational vehicles, campgrounds and licenses to occupy. As provided in those policy guidelines, a recreational vehicle may meet the definition of a “manufactured home”; however, I must be satisfied that the property occupied by the respondent is a manufactured home site in a manufactured home park under a tenancy agreement as opposed to a license to occupy.

My authority to resolve disputes is provided by the Director of the Residential Tenancy Branch and is limited to disputes involving tenancies that fall under the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act*.

Considering the property or site in question was not equipped with services and utilities one would ordinarily expect in a manufactured home park (water lines, sanitary waste disposal, electrical connections and the like), the property was not zoned for use as a manufactured home park or there were no features of permanence, I am not satisfied that the subject property is a manufactured home site in a manufactured home park to which the Act applies. Therefore, I decline to accept jurisdiction to resolve these disputes.

The applicants remain at liberty to pursue a remedy against the other in the applicable legal forum.

Conclusion

I find the Manufactured Home Park Tenancy Act does not apply to these disputes and I have declined jurisdiction.

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: September 27, 2022

Residential Tenancy Branch