



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ORL, OL, FFL

Introduction

The Landlord seeks the following relief under the *Manufactured Home Park Tenancy Act* (the “Act”):

- an order pursuant to s. 55 that the Tenant comply with the Manufactured Home Park Rules; and
- return of its filing fee pursuant to s. 65.

K.B. appeared as agent for the Landlord. J.M., the property manager, also appeared on behalf of the Landlord. The Tenant did not appear, nor did someone appear on their behalf.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The Landlord’s agent advised that the Notice of Dispute Resolution and the Landlord’s evidence were personally delivered to the Tenant on July 24, 2022. I have been provided with proof of service in which personal service was witnessed. The Landlord’s agent indicates that the Tenant refused to sign for acknowledging receipt of the Landlord’s application materials.

I accept the Landlord’s undisputed testimony as supported by the proof of service. I find that the Landlord served its application materials in accordance with s. 82 of the *Act* by personally delivering the documents on the Tenant on July 24, 2022. It is not relevant that the Tenant refused to sign acknowledging receipt.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Tenant did not attend, the hearing was conducted in their absence as permitted by Rule 7.3 of the Rules of Procedure.

Issues to be Decided

- 1) Should the Tenant be ordered to comply with the park rules?
- 2) Is the Landlord entitled to its filing fee?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this decision.

The Landlord's agent testified that the Landlord purchased the manufactured home park in November 2021. He further testified that the manufactured home in question is owned by the Tenant but that when the Landlord took over the park, the Tenant's son was living within the manufactured home. I am advised that there is no written tenancy agreement maintained by the previous owner and landlord.

The Landlord's agent testified that the son passed away on or about February 25, 2022 and that the manufactured home has been unoccupied since that time. The agent advised that the rental site is in a state of uncleanness with unregistered vehicles parked on the site. According to the agent, the Landlord considers that the site has been abandoned by the Tenant, though acknowledges that they have received rent throughout the relevant period.

The Landlord's evidence includes photographs of the site. It also includes a warning letter from the municipality in which various infractions are noted relating to cleanliness. The agent advises that the rental site is located adjacent to a public road.

The agent further testified that when the Landlord took over the park, it instituted a set of park rules. I have been provided with a copy of the park rules by the Landlord. I am advised that neither the Tenant nor the son signed onto the rules when they were instituted by the Landlord. The Landlord's evidence includes copies of warning letters from May and June 2022 in which issues have been highlighted. I understand that nothing has been done to date.

Analysis

The Landlord seeks an order that the Tenant comply with the park rules. Pursuant to s. 55(3) of the *Act*, I may grant an order to give effect to the rights, obligations and prohibitions under the *Act*, including an order that the landlord or tenant comply with the *Act*, regulations, or the tenancy agreement.

In this instance, there is no tenancy agreement. I have considered whether the named Tenant is the tenant for the purposes of this tenancy or whether the deceased son is. I accept the Landlord's undisputed evidence that the owner of the manufactured home is the Tenant. I further accept that rent has continued to be paid after the death of the son, such that it leads me to conclude the son was an occupant and that the Tenant has continued to make payments after the son's passing. Both points support my finding that the Tenant is the tenant for the purposes of this tenancy.

I pause to consider whether the park rules apply to the Tenant, despite there being not written tenancy agreement and neither the tenant nor the son signing off on the rules when they were implemented. I note that s. 13 of the *Act* requires all tenancy agreements to be written and to include the park rules. However, failure to comply with the written requirement does not invalidate the tenancy.

Section 32 of the *Act* permits landlords to "establish, change, or repeal" rules governing the operation of a park. There is no contemplation that a tenant must consent to the rules created by a landlord. Indeed, s. 32(4) of the *Act* permits park rules to prevail when there is a conflict between the rules and the terms of a tenancy agreement provided those terms are not standard terms set by the *Act* or material terms to the tenancy agreement. Further, s. 14(3) of the *Act* specifically excludes park rules from the requirement that a tenancy agreement may not be altered or amended except through the consent of the parties.

In other words, upon consideration of ss. 32 and 14 of the *Act*, the Landlord was permitted to set up the park rules unilaterally without the Tenant's consent.

I have little difficulty here that the Tenant is in breach of the park rules as it relates to breach of keeping the site clean, maintaining the manufactured home, cutting the grass, and keeping unregistered vehicles on the site. The photographs provided by the Landlord show a site that appears to be completely abandoned. Garbage is found about the side, the grass is uncut, the siding of the home is falling off, and dilapidated and

partial built structures are on the site. Warning letters were issued in May and June 2022. Despite this, nothing has been done by the Tenant.

I find that the Tenant is in breach of the park rules and ought to be ordered to comply.

Conclusion

I order that the Tenant comply with the park rules immediately and that the deficiencies addressed by the Landlord within the warning letters be remedied within 30 days of receiving this order.

I find that the Landlord was successful in its application. Pursuant to s. 65 of the *Act*, I order that the Tenant pay the Landlord's \$100.00 filing fee.

I direct that the Landlord serve this decision on the Tenant in any of the methods permitted under the *Act*.

It is the Landlord's obligation to serve the monetary order on the Tenant. If the Tenant does not comply with the monetary order, it may be filed with the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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 12, 2022

Residential Tenancy Branch