



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC

Introduction

This hearing was scheduled to deal with a tenant's application for orders for compliance with the Act, regulations or tenancy agreement.

Both parties appeared at the hearing.

At the outset of the hearing, I confirmed the applicant served his proceeding package and the respondent received it. I also confirmed that the respondent had not submitted any evidence and intended to provide its position orally during the hearing.

I noted that this application was filed under the *Residential Tenancy Act* ("RTA") but the name of the respondent indicated the property was an RV park. I determined the applicant owns the trailer and the respondent provides a site to the applicant. In such cases, the RTA is not applicable.

I informed the parties that where a tenant owns the manufactured home and rents a manufactured home site from a landlord under a tenancy agreement, the *Manufactured Home Park Tenancy Act* ("MHPTA") applies.

I informed the parties that I may amend the application to change the applicable Act from RTA to MHPTA if I have jurisdiction to resolve this dispute under the MHPTA.

The landlord's representative stated the landlord has historically taken the position the Innkeepers Act applies to them. The applicant concurred he has heard the park manager say that but the applicant pointed out he has been occupying the same site since 2014, as his permanent residence.

I impressed upon the parties that rights and entitlements under the MHPTA are significantly different than those under the Innkeepers Act and I asked the parties if they were prepared to make arguments and present evidence with respect to jurisdiction.

The parties acknowledged they had not come to the hearing well prepared to make arguments or present evidence with respect to jurisdiction.

The applicant requested that he be permitted to withdraw this application so that he may try to resolve the dispute with the respondent and if that is unsuccessful to better familiarize himself with the issue of jurisdiction before making another Application for Dispute Resolution. The respondent's representative had no objection and representative referred to by initials NS offered to help facilitate a discussion between the applicant and the current park manager who was not available for the hearing today.

I suggested the parties read Residential Tenancy Policy Guideline 9 and 27 and to seek their own independent legal advice with a view to determining their position concerning jurisdiction.

In light of the above, I dismiss the tenant's Application for Dispute Resolution filed under the RTA and the applicant is at liberty to make another Application for Dispute Resolution under the MHPTA.

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: January 20, 2023

Residential Tenancy Branch