



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR**

Introduction

This hearing was convened by way of conference call in response to an application for dispute resolution (“Application”) filed by the Landlord pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) in which the Landlord seeks an Order of Possession for non-payment of rent pursuant to sections 46 and 55 of the Act.

The Tenant did not attend this hearing scheduled for 9:30 am. I left the teleconference hearing connection open for the entire hearing, which ended at 10:07 am, in order to enable the Tenant to call into this teleconference hearing. The Landlord attended the hearing and he was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Dispute Resolution Proceeding (“NDRP”). I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

Preliminary Matter – Amendment of Application

The Landlord stated he owned the residential property. The Landlord submitted into evidence a signed agreement dated September 7, 2021 (“Tenancy Agreement”) between the Landlord, the Tenant and the Tenant’s wife. The Landlord stated the Tenancy Agreement gave the Tenant and his wife the right to occupy the residential property. Although the Tenancy Agreement is silent on what was being rented or how much the rent was, the Landlord stated the Tenant and his wife brought a recreational vehicle (“RV”) onto the residential property and the Tenant was to pay \$300.00 per month for rent. The Application was made pursuant to the provisions of the *Residential Tenancy Act* (“RTA”). The Landlord stated the RV was removed from the property in September 2022. As the tenancy lasted a lengthy period of time, I find the Act applies to the rights and responsibilities of the parties pursuant to the terms of the Tenancy Agreement. The Landlord requested that I amend the Application as being made under the Act rather than the RTA.

Rule 4.2 of the RoP states:

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing. If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

As the Landlord's request for an amendment could have reasonably been anticipated by the Tenant, I hereby order the Application to be made pursuant to the Act rather than the RTA.

Preliminary Issue – Dismissal of Landlord's Application

The Landlord stated the Tenant and his wife broke up and that the RV was removed from the residential property in September 2022. As such, the Landlord no longer requires an Order of Possession. As there are no longer any claims before me that require a determination under the Act, I dismiss the Application without leave to reapply.

Conclusion

The 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: January 30, 2023

Residential Tenancy Branch