



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, OLC

Introduction

This hearing convened as a result of a “Tenant’s Application for Dispute Resolution” filed October 14, 2022 wherein the Applicant sought to dispute a rent increase and obtain an Order that the Landlord comply with the *Manufactured Home Park Tenancy Act* (the “*MHPTA*”) the *Manufactured Home Park Tenancy Regulations*, and/or the tenancy agreement.

The hearing of the Application was scheduled for teleconference before me at 11:00 a.m. on January 27, 2023. Both parties called into the hearing. The Applicant called in on her own behalf as did her witness, B.C. The Respondent called in on his own behalf, as did two others, M.B. and H.D. who appeared as J.C.’s legal counsel.

Preliminary Matter

The parties attended a prior hearing in September of 2022 before Arbitrator Tangedal. The file number for that matter is included in the unpublished cover page of this my Decision.

In that prior matter, the Applicant named an incorporated company, who apparently owns the park in which the Applicant’s recreational vehicle is located, as the Landlord. Counsel for the incorporated company submitted that the Residential Tenancy Branch lacked jurisdiction over the living arrangement, arguing it was a license to occupy, not a tenancy. The Arbitrator considering the Application did not make a finding as to jurisdiction and dismissed the claim pursuant to section 52 of the *MHPTA* on the basis that the Applicant failed to provide sufficient particulars of her claim. For greater clarity I reproduce the Arbitrator’s decision as follows:

I find the applicant has provided insufficient particulars to proceed with this dispute resolution proceeding. Consequently, **I refuse** to hear this dispute pursuant to section 52(2)(b) of the Act, which applies and states:

Starting proceedings

52(2) An application for dispute resolution must

(a) be in the applicable approved form,

(b) **include full particulars of the dispute that is to be the subject of the dispute resolution proceedings, ...**
[emphasis added]

While the applicant has liberty to reapply, the applicant is reminded that I make no finding regarding the jurisdictional argument submitted by the respondent's counsel.

Should the applicant re-apply, that issue may be raised as a preliminary matter to be addressed at any future hearing.

In the claim before me the Applicant again provided insufficient particulars of her claim and provided documentation which did not appear to relate to any claim before me. While she indicated she was disputing a rent increase on her application, during the hearing before me she stated that she was not in fact taking issue with any rent increase. Further, she provided a letter in evidence which suggests she is disputing a notice to end tenancy, yet did not indicate such a claim on her application. Finally, the Applicant provided other documentary evidence relating to the payment of rent, yet failed to articulate how this is relevant to any claim before me. In other documentation filed by the Applicant she makes reference to the Respondent's "Big city tactics]" yet does not explain how this relates to a claim under the *Manufactured Home Park Tenancy Act*.

Section 52 of the *MHPTA* requires an applicant provides full particulars of their claim to ensure the respondent is able to respond to the claim. Hearings before the Residential Tenancy Branch are conducted in accordance with the legislation, as well as the *Residential Tenancy Branch Rules of Procedure* and the Principles of Natural Justice. One of the Principles of Natural Justice is that a party to a dispute has the right to know the claim against them, the opportunity to receive and meaningfully respond to any evidence filed by the other party, and an opportunity to attend the hearing and respond to the claim. The *Rules of Procedure* and the Principles of Natural Justice ensure fairness in such proceedings; as well, when a party receives full particulars and full disclosure of the claim made against them there is an increased opportunity for settlement.

In this case I find the Applicant has failed to provide full particulars and as such I find the Respondent was not afforded a fair and reasonable opportunity to respond. I therefore dismiss her claim pursuant to section 52(2)(b) of the *MHPTA*.

As discussed during the hearing the Applicant is encouraged to seek assistance from legal counsel, or speak to an Information Officer the Residential Tenancy Branch, to ensure any future claims meet the requirements of the *MHPTA*, the *Rules of Procedure*, and the Principles of Natural Justice.

In the Application before me the Applicant personally named J.C., the resort manager, as Landlord. Counsel for the Respondent asked that the claim against J.C. be dismissed without leave as J.C. is not a property party to any dispute. I agree that this is an appropriate remedy. Accordingly, **I dismiss the entirety of the claim against J.C. without leave to reapply.**

For the same reasons as Arbitrator Tangedal I make no finding as to whether the Branch has jurisdiction over this dispute. Should the Applicant file a further claim that matter may be addressed by the Arbitrator hearing the claim.

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: February 10, 2023

Residential Tenancy Branch