



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **PSF, LRE, OLC**

Introduction

This hearing was scheduled to deal with a tenant's application filed under the *Manufactured Home Park Tenancy Act* (MHPTA) for the following remedies:

- for the landlord to provide services or facilities required by the tenancy agreement or law
- to suspend or set conditions on the landlord's right to enter the site or property; and,
- orders for the landlord to comply with the Act, regulations or tenancy agreement.

Both parties appeared or were represented at the hearing.

The respondent's legal counsel raised a number of preliminary issues, as follows:

1. Naming of parties

Legal counsel stated that the named respondent is the name of a law firm and is not the owner of the subject property; however, legal counsel and/or the named law firm do represent the owner.

The applicant stated that he only knew one name of the person he thought was the owner of the subject property and that he did a land title search for the property and the result showed that a corporation owns the property. However, the applicant explained he named the law firm as he did not know how to serve the corporate owner and the law firm had been issuing notices at the subject property.

I informed the parties that I may consider amending the name of the respondent but before further considering that further legal counsel raised further preliminary issues.

2. Jurisdiction

Legal counsel stated the MHPTA does not apply and the owner considers the applicant to have been a squatter on bare land.

The applicant denied he was a squatter and stated he paid rent under a tenancy agreement to occupy the land and develop it. I asked the applicant if he had a copy of the tenancy agreement to which he responded it was confiscated by the police.

I did not further hear or consider the matter of jurisdiction given the other preliminary issues raised, as seen below, but I suggested the applicant familiarize himself with the jurisdictional limitation of the Residential Tenancy Branch ("RTB").

3. Remedies sought by applicant

Legal counsel stated the applicant has since been removed from the property. The applicant confirmed this was accurate although he considers it an illegal eviction.

I noted the remedies sought in the application that was filed in November 2022, when the applicant was still occupying the property, and I asked the applicant what remedies he seeks given the change in circumstances since he filed. The applicant stated he was seeking "justice" although he was uncertain as to what remedies were available to him but that remedies may include pursuing monetary compensation, an order seeking return of his property, and have charges laid against the owner.

I informed the applicant that the RTB does not have authority or jurisdiction to lay criminal charges against a party but that compensation and/or orders for return of person property are remedies an Arbitrator may order provided the applicant makes such a request against the proper party, sets out the claim, and establishes the RTB has jurisdiction to make such orders.

The applicant requested his application be amended to seek these remedies. I declined to permit an amendment for monetary compensation or orders for return of personal property as an application must be amended at least 14 days prior to the hearing under the Rules of Procedure and that I was of the view that amending the application at the hearing would be prejudicial to the other party since they have not been put on advance notice of any such claims.

4. Service

Legal counsel pointed out that service of the respondent's materials may have been late and requested an adjournment to deal with that rather than exclusion of the evidence.

I did not further consider service of evidence or an adjournment as I am of the view this application cannot proceed given:

- The owner has not been properly named;
- The remedies sought in the application are moot at this time; and
- The applicant has yet to identify the remedies he seeks at this time and file the appropriate application for such.

Legal counsel stated that if the applicant seeks to serve the owner with a future claim, the named law firm will accept service of documents on behalf of the owner.

Conclusion

The application cannot proceed as filed. I make no finding as to application of the MHPTA to any agreement the applicant may have with the owner and the subject property. The applicant remains at liberty to file another Application for Dispute Resolution against the owner/landlord for remedies he seeks if he remains of the position the MHPTA applies.

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: March 24, 2023

Residential Tenancy Branch