



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

INTERIM DECISION

Dispute Codes: DRI, MNDC, RP, CNC, and RR

These applications were both brought by the tenant.

By application received February 6, 2009, the tenant seeks to dispute an additional rent increase, recover \$1,442.55 for loss or damages under the *Act*, obtain an order for the landlord to conduct repairs and obtain a rent reduction for services or facilities not provided.

By application of March 27, 2009, the tenant seeks to have set aside a Notice to End Tenancy for cause served on March 25, 2009.

This tenancy began in 1995 in this 30-unit manufactured home park and the present landlord took possession of the park in early 1996.

The present hearing was adjourned as the allocated hour did not provide sufficient time to hear all of the evidence.

The tenancy has been the subject of three hearings within the last nine months. They are briefly reviewed here as a background as, in addition to other substantive issues, each party claims harassment on the part of the other, the tenant by way of notices to end tenancy and denial of service, and the landlord by way of the tenant bringing applications for hearings.

The first hearing on July 9, 2008 was on the tenant's application to set aside a Notice to End Tenancy arising from a dispute regarding the method of making rent payments. While the issue of rent payment appears to have been resolved, the dispute resolution officer made reference to but did not make determinations on disputes regarding snow plowing, the water supply and the tenant's service dog.

The second hearing, held on September 30, 2008 on the landlord's application for an Order of Possession was dismissed due to improper service of the Notice to End Tenancy.

The third hearing was held on November 4, 2008 on the tenant's application to set aside a Notice to End Tenancy. Again, the issue of method of rent payment was addressed. The notice did not succeed on that claim but the dispute resolution officer proposed options for the payment of rent and ordered the tenant to adopt one of them. The notice was set aside.

The parties also participated in a hearing before a Human Rights Tribunal on an application by the tenant made July 21, 2008 primarily addressing the issue of the tenant's assistance dog. The decision, rendered March 2, 2009, addressed some complaints addressed to the tenant by the landlord on the dog, denial of permission to replace a fence, allegations concerning snow removal/sanding, and the delivery of a Notice to End Tenancy over the previously noted rent payment. Some of the issues were dismissed as out of time and others were found not to constitute a contravention of the Human Rights Code.

The tenant gave evidence that he has filed another complaint under the Human Rights Code but the matter has not as yet been set for hearing.

The present sitting of this hearing was able to dispose of the tenant's dispute of an additional rent increase.

During the hearing, the landlord's bookkeeper had appeared as a witness to represent her calculations with respect to a "proportional increase" beyond the 2 per cent plus inflation (3.7 percent) normally allowed. The proportional increase, introduced in July of 2007 permits landlords of manufactured home parks to pass through to tenants any increase in utilities or local government levies imposed on the common property of the park.

She gave evidence that she had made her calculations strictly according to the prescribed formula. The tenant had been under the impression that this was an "additional increase" under section 36(3) of the *Act* and was unaware of any flaws in the bookkeeper's calculations that would have disqualified the proportional increase. His legal counsel advised that he was familiar with the bookkeeper's work, that it was excellent, and that it would not be necessary for her to be present at the next session of the hearing.

The hearing will reconvene for two hours at a time and date set out in the accompanying Notice of Hearing documents on a date after May 20, 2009 as requested by counsel for the tenant.

In the interim, given that both landlord and tenant have reported medical conditions clearly exacerbated by these disputes, I would encourage all participants to reflect on mutually beneficial solutions.

April 14, 2009

Dispute Resolution Officer