



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. Other; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order for the removal of the Tenant's portable canopy?

Background and Evidence

The Landlord states that a few years ago the Tenant had asked for permission to place a portable garage on the driveway and was refused permission. The Landlord states that it was noticed on September 22, 2011 that the Tenant had installed a portable garage without permission. The Landlord states that such installation of the item is contrary to the Park Rules. The Landlord supplied the wording of the relevant park rule as follows:

CONSTRUCTION

1. No additions, sundecks, storage sheds or fences may be installed without the park manager's written approval as well as proposed location. All approved additions, sundeck, storage sheds and fences must be painted so as to compliment the mobile home and park within thirty (30) days of completion. Building permits are REQUIRED by the Municipality and a fine of \$100 may be imposed if not abided by. Also if the Park incurs any fines, the tenant will be held responsible for not abiding with the rules.

The Landlord states that a portable garage is not allowed as they are temporary structures, poorly built, will deteriorate quickly and will not compliment the park appearance.

The Tenant states that the article complained of is not a carport or a garage but a portable canopy. Further, the Tenant states that the roofs of her sheds were previously covered with a tarp and the Tenant simply moved the canopy to cover both shed roofs instead of using the tarp. The Tenant provided photos of the canopy as well as photos of other tenant's structures such as a similar canopy used by one tenant to cover an outdoor table and seating area.

Analysis

Section 30 of the Regulation provides that rules may be established if reasonable and if the rule has the effect of, inter alia, protecting and preserving the condition of the park. This section further provides that such a rule is enforceable against a tenant only if, inter alia, the rule applies to all tenants in a fair manner and the rule is clear enough that a reasonable tenant can understand how to comply with the rule.

Although the Landlord supplied a rule as governing the restriction of the Tenant's canopy, given the rules reference to construction, painting and building permits for the items not allowed by the rule, I find that the rule cannot be interpreted to include a portable canopy that operates solely as a cover, such as those commonly found over outdoor table and seating areas. I find therefore that the Tenant has not breached the park rule by erecting the canopy without permission of the Landlord and accordingly, I dismiss the Landlord's application.

Conclusion

The Landlord's application is dismissed.

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: October 25, 2011.

Residential Tenancy Branch