



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FF, O

Introduction

This hearing was convened by way of conference call in repose to the tenants application for an Order for the landlord to comply with the *Residential Tenancy Act* (Act); other issues; and to recover the filing fee from the landlords for the cost of this application.

The tenants and landlords agent attended the conference call hearing, gave sworn testimony and were given the opportunity to cross exam each other and witness on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Are the tenants entitled to an Order for the landlord to comply with the Act, regulations or tenancy agreement?

Background and Evidence

Both parties agree that this month to month tenancy started on June 01, 2004. Rent for this site is now \$462.12 per month and is due on the first day of each month.

The tenants testify that when they moved into the property there was a different park manager. The tenants testify that they have always been allowed to keep a trailer on their site since 2005. The tenants testify that they have not used the trailer for some time and forgot to insure it last year. The tenants state the trailer has been loaned to a friend and was insured on or about January 27, 2012. However they received a letter from the landlord's agent informing them that the trailer will not be permitted to be returned to their site.

The tenant testifies that they have the original park rules they were given when they moved onto the site. The tenants' state when this park manager took over and moved onto the park he gave the tenants a new set of park rules. The tenants testify that it does not say in their park rules that they cannot have a trailer on their site, just that any vehicle needs to be insured.

The tenants testify that from the outset of their tenancy the male tenant had a work van he drove home and parked each day on their site. The tenants testifies that now the tenant works for the school district and has a three quarter ton cargo van which he has to bring home and park when he is required to do call out work at night. The tenant states the landlord has informed the tenants that they are not allowed to park this cargo van on their site as it is a commercial vehicle. The tenants state the park rules state that they are not allowed to park vehicles larger than one ton and as this cargo van is only three quarter tons then the landlord is not entitled to ask them to remove it.

The tenants state that they are allowed to have two licensed vehicles parked on their site. When the male tenant brings home the work cargo van their other vehicle is left at the male tenant's place of work. This means that there are only two vehicles parked at any time on their site when their trailer returns to the site.

The tenants testify that they have an amount of fire wood stored on their site. The tenants state this has been stored on their site since the beginning of their tenancy and there is nothing in the park rules prohibiting the tenants from storing wood they use for

camping on their site. The tenants state they have received a letter from the landlord asking them to remove the wood on January 30, 2012. The tenants state the landlord said he has concerns about the wood being unsightly and attracting rodents. The tenants state the wood is tidy and there is no evidence of rodents.

The tenants testify that they have two dogs one is a small dog and one is a Labrador. The tenants testify that they sent the landlord a letter on July 01, 2011, two weeks prior to getting the Labrador puppy asking for approval from the landlord to get the new dog. The tenants state they did not hear anything back from the landlord so took that as approval to get the new puppy. The tenants' state there is nothing in their park rules about only being allowed a lapdog. The tenants state the landlord's agent did approach the female tenant when she was out walking another larger dog which the tenants were looking after. The tenant states the landlord's agent is confused between this dog and the puppy they actually got. The tenant states they received two letters from the landlord concerning the issue with the dogs and the tenant states she resents the landlords tone in which he told the tenant she was being dishonest about having the dogs.

The tenants seek an Order for the landlord to comply with the *Act* with regards to these issues to ensure the landlord complies with the park rules the tenants have in place.

The landlord's agent testifies that the tenants had an unlicensed trailer parked on their site. At first the landlord states he could not see that the trailer did not show a valid licence as the tenants had covered up the plate with blocks of wood. The landlord testifies that he gave the tenants 24 hours notice to carry out an inspection of their site and they then discovered the unlicensed trailer. The tenants were told they must licence the trailer or remove it in line with the park rules they signed in 2004.

The landlord's agent testifies that he took over as manager to this park in 2007 and has inherited the problem with the tenants' trailer as the park rules state no recreational

vehicles (RV) are allowed to be parked on the site. The signs at the entrance to the park also inform all the tenants that no unlicensed vehicles are allowed on the site.

The landlord's agent testifies that when they took over as park managers they found some of the tenants did not have copies of the park rules. The landlord's agent states they printed out copies of the rules they had when they became manager and gave these to all the tenants. The landlord acknowledges that the rules that apply for these tenants are the ones they signed in 2004. The landlord's agent acknowledges that the park rules that apply to these tenants do not stipulate that there can be no commercial vehicles on the site although the landlord's agent has informed the tenants that they cannot park the male tenants work cargo truck on their site.

The landlord's agent testifies that the tenants have fire wood stacked on their site for over eight years which is unsightly and in accordance with the park rules they are not to have outside storage on the site. The landlord's agent testifies that this wood attracts rodents and is a fire hazard although the landlord's agent agrees there is no evidence of rodents on the tenants' site.

The landlord's agent testifies that no pets can be brought into the park without prior written approval of the landlord. This includes mammal, bird, reptile, insect or arachnid. The landlord's agent testifies that the landlord only permits small lap dogs in the park. The landlord's agent states when he became manager of the park the tenants did have a small white dog. Later the female tenant was seen with a larger dog walking around the park and when challenged by the landlord's agent she informed the agent that she was looking after this dog. A few days later the landlord's agent states he was driving by the tenants' site when he saw the tenants' children playing with a larger dog and the tenants' children informed the landlord that it was their dog. The landlord's agent states the tenant was dishonest to him about getting the dog.

The landlord's agent testifies that they did not receive a letter from the tenants asking for approval to get a larger dog. If the tenants had sent such a letter why did they not

follow up by inquiring with the landlord that approval had been given before they got the dog. The landlord's agent agrees that some other tenants also have larger dogs and states these are problems being dealt with too. The landlord's agent states as the tenants did not get written permission to get the larger dog they are in breach of the park rules

The landlord's agent states the tenants' photographic evidence shows a picture of a chocolate Labrador with a rabbit. The landlord's agent questions the tenants about keeping the rabbit without written approval by the landlord.

The tenant testifies that they have a rabbit, a bird and some fish and were not aware they must get written approval to have these pets as the previous manager simply wanted to know what animals the tenants had and did not require the tenants to seek written approval.

The tenants call their first witness. This witness testifies that he used to live next door to the tenants and testifies that the tenants have always been allowed to keep their travel trailer and firewood on their site. The witness states the firewood is not unsightly and is stacked neatly. The witness testifies that the tenants do not park their vehicle and the male tenants work van on the site at the same time. The witness also states he has never seen any evidence of rodent activity.

The landlord declines to cross exam this witness.

The tenants call their second witness who was also a tenant on the site. This witness testifies that the tenants have always had a trailer parked on their site and the landlord had said that trailers were grandfathered into the site. The witness testifies that the landlord wrote to him concerning the tenants' trailer. The witness testifies that other tenants also store wood on their sites and there does not seem to be any issues with that from the landlord.

The witness testifies that the tenants had informed the witness that they had written to the landlord to gain permission to get the second dog. The witness testifies that to his knowledge the landlord did not respond to the tenant's letter. The witness testifies that he has had similar issues with the landlord failing to respond to letters the witness has sent them on at least three separate occasions. The witness testifies that when he sends the landlord a letter he leaves it in the landlord's mailbox and takes a witness with him to proof service of any letters.

The landlord testifies that he has had dealings with this witness and denies that the landlord has not responded to letters from the witness and denies receiving letters from the witness. The landlord declines to cross examine this witness.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. With regard to the tenants claim for an Order for the landlord to comply with the *Act*, regulations or tenancy agreement, the landlords agent agrees that the park rules that apply to these tenants are the rules the tenants signed at the start of their tenancy in 2004. I have considered these rules in regards to the tenants' application and find with regard to the travel trailer that the rules state only licensed, roadworthy vehicles up to one ton may be parked in the designated parking space. Unlicensed vehicles may not be parked on the tenants' lot..... Two licensed vehicles only to be parked in most driveways. As the park rules do not restrict parking for a trailer as long as it is licensed then the landlord is not permitted to restrict access to the tenants to park their travel trailer on their site as long as the travel trailer remains a licensed, roadworthy vehicle. I HEREBY ORDER the landlord to comply with their park rules concerning the tenants travel trailer and allow the tenants to park this travel trailer on their site.

With regard to the park rules concerning the tenants work van; I find the same rule applies to this vehicle as the tenants have testified that the work van is under one ton

and no more than two vehicles are ever parked on their site at any one time. Consequently, I HEREBY ORDER the landlord to comply with the park rules and allow the tenants to park their work van on their site as long as no more than two vehicles are parked there at any one time.

With regard to the tenants storage of firewood; #4 of the park rules under the heading 'Maintenance' states that no outside storage is permitted on the tenants' lot. Consequently, I find the landlord is not in breach of the park rules by requesting that the tenants remove the stored fire wood from their site. Consequently, this section of the tenants application seeking an order for the landlord to comply with the *Act*, regulations or tenancy agreement concerning the firewood is dismissed.

With regard to the tenants second dog; #10 of the park rules under the heading 'When you move in' states that the pet population is controlled by the landlord. No pets, whether mammal, bird, reptile, insect or arachnid, maybe brought into the park or acquired after occupancy commences without the written approval of the landlord..... The tenants argue that they did write to the landlord seeking approval to get a new dog but as the landlord did not respond the tenants assumed approval was given. The landlord argues that they did not get a letter from the tenants concerning approval for another dog and if they had received this request it would not have been granted due to the size of the dog. I have considered both arguments including the testimony from the tenants witness concerning responses to letters sent to the landlord.

It is my decision that had the tenants sent a letter asking the landlord for permission to get another dog and the landlord failed to respond the tenants should have followed through on this request for permission and not simply assumed the landlord had given permission. The park rules clearly state that written permission must be given by the landlord prior to tenants obtaining any new pets including dogs. Consequently, this section of the tenants' application seeking an order for the landlord to comply with the *Act*, regulations or tenancy agreement concerning the dog is dismissed.

As the tenants have been partially successful with their claim I find the tenants are entitled to recover their **\$50.00** filing fee from the landlord and may deduct this amount from their next rent when it is due.

Conclusion

I HEREBY ORDER THE Landlord to comply with the *Act*, regulations and tenancy agreement concerning the park rules in force for these tenants dated 2004 concerning the tenants travel trailer, and the tenants work cargo van.

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: May 15, 2012.

Residential Tenancy Branch