



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD FF

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) An Order to return double the security deposit pursuant to Section 38; and
- b) To recover the filing fee for this application.

Preliminary Issue:

The Respondent requested at the outset of the hearing that the tenant's Application be dismissed for she had made two fundamental errors. He submitted she had brought the Application under the *Manufactured Home Park Tenancy Act* and that he is not the landlord so she named the wrong party.

Analysis:

I find the landlord is correct. I find section 4 of the *Manufactured Home Park Tenancy Act* states it does not apply to situations where the site and the manufactured home are both rented to the same person. The tenant rented both the site and home from the landlord.

I find also that she named the wrong person as landlord. Court rules require that a lawsuit be brought in the name of the "real party in interest." This is the person or entity that will be directly benefited or injured by the outcome of the case. I find the tenant named an individual as landlord and the tenancy agreement names a company as landlord.

Although the tenant was upset and blamed some staff for poor advice, I find her tenancy agreement which she provided in evidence clearly states it is under the *Residential Tenancy Act* and the name of her landlord is clearly stated. I find she is responsible for her own errors on the Application.

I provided some advice to both parties regarding filing their respective claims and possibly having them joined to be heard together.

Conclusion:

I dismiss this Application of the tenant and give her leave to reapply under the right Act and naming the correct party as landlord. I find she is not entitled to recover the filing fee due to her lack of success.

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: April 09, 2015

Residential Tenancy Branch

