



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MICAR ENTERPRISES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF MNDC

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- a Monetary Order pursuant to section 60 of the *Act*;
- a return of the filing fee pursuant to section 65 of the *Act*.

Both the corporate landlord, represented at the hearing by C.B. (the "landlord") and the respondents attended the hearing. All parties were given a full opportunity to be heard, to present sworn testimony and to make submissions. The respondents confirmed receipt of the landlord's application for dispute resolution by way of Canada Post Registered Mail. I find the respondents were duly served in accordance with the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award?

Can the landlord recover the filing fee?

Background and Evidence

Testimony provided to the hearing by the landlord, C.B. (the "landlord") explained a tenancy was entered into between the landlord's corporate entity and V.C. on June 1, 2009. Rent was \$247.50 at the outset of the tenancy and rose to \$314.50 by the conclusion of the tenancy. V.C. said she vacated the manufactured home in August 2017 and paid a pad rental through to January 2018.

On October 7, 2017 ownership of the manufactured home was transferred to M.S. Included with the landlord's evidentiary package were a Bill of Sale noting the transfer of ownership from V.C. to M.S., a Notice to Transfer Ownership, and a Transfer Verification issued by the Manufactured Home Registry. All information contained in these documents listed M.S. as the owner of the manufactured home as of October 10, 2017.

The landlord said she was seeking a monetary award \$9,028.80 related to expenses she incurred as a result of demolition and cleaning costs required to remove the manufactured home from its pad after it was abandoned. Specifically, the landlord sought \$180.00 for cleaning of the jobsite, \$8,534.30 for demolition and removal of the manufactured home and \$314.50 in lost rent for February 2018 because the pad could not be re-rented in February because of the ongoing demolition work. When asked why she named both V.C. and M.S. in her application, the landlord said she did not know who was responsible for the expenses and therefore named both parties involved with the property.

V.C. explained she moved out of the manufactured home in August 2017 and started a process of demolition in this same month. V.C. said she acquired building permits and engineering reports to ensure the premises was asbestos free. In September and October 2017 this demolition process was partially completed. In October 2017 V.C. and M.S. agreed to a transfer ownership for the manufactured home.

M.S. maintained she never occupied the home, was never a tenant of C.B., and did not ever take possession of the home; therefore, she argued, she should not be involved with the proceedings. The parties agreed that the home was purchased by M.S. from V.C. in October 2017 with the understanding that the home would be moved onto M.S.'s property so that it could be occupied by another individual. Following the completion of the sale, M.S. said she discovered the home was unsuitable for habitation and therefore declined to move the home onto her property.

Analysis

Section 60 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and **that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the other party.** Once

that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove her entitlement to a claim for a monetary award.

There is no question that a loss was incurred by the landlord; however, the landlord has failed to establish which of the parties is responsible for the loss. In her application, the landlord has applied for compensation from the “tenants”, V.C. and M.S. These named “tenants” were not multiple tenants renting the same premises under one tenancy agreement, nor were they roommates jointly responsible for damage. I therefore cannot issue a monetary award against both of them as would normally occur. I find the landlord has failed to adequately identify in her application the person whom she alleges gave rise to a violation of the tenancy agreement or a contravention of the *Act*. For these reasons, I dismiss the landlord’s application with leave to reapply.

As the landlord was unsuccessful in her application, she must bear the cost of her own filing fee.

Conclusion

The landlord’s application for a monetary award is dismissed with leave to reapply.

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: September 26, 2018

Residential Tenancy Branch