

2020 Bill 3

Second Session, 30th Legislature, 69 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 3

MOBILE HOME SITES TENANCIES AMENDMENT ACT, 2020

THE MINISTER OF SERVICE ALBERTA

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 3

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MOBILE HOME SITES TENANCIES AMENDMENT ACT, 2020

(Assented to , 2020)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cM-20

1 The *Mobile Home Sites Tenancies Act* is amended by this
Act.

2 Section 55 is amended by renumbering it as section 55(1)
and by adding the following after subsection (1):

(2) No application may be accepted by a clerk for filing under
subsection (1) except in accordance with section 59.5.

3 The following is added after section 59:

Part 5.1 Dispute Resolution Service

Definitions

59.1 In this Part,

Explanatory Notes

1 Amends chapter M-20 of the Revised Statutes of Alberta 2000.

2 Section 55 presently reads:

55 A person wishing to commence an application in the Provincial Court shall file with a clerk of the Provincial Court

(a) a written notice identifying the mobile home site in respect of which the application is being commenced and setting out the remedy being applied for, and

(b) an affidavit referred to in section 44 or 46, as the case may be.

3 Adds Part 5.1, Dispute Resolution Service.

- (a) “Dispute Resolution Service” means the body designated in section 59.2(1);
- (b) “regulations” means regulations made under section 59.8;
- (c) “remedy” means any order, judgment, damages, compensation or other relief provided for in this Act.

Dispute Resolution Service

59.2(1) The dispute resolution service established by the regulations made under section 54.7 of the *Residential Tenancies Act* is designated as the Dispute Resolution Service for the purpose of this Act.

(2) The Dispute Resolution Service has all necessary jurisdiction and power to serve as the dispute resolution service under this Act.

(3) The administrator, tenancy dispute officers and any other employees appointed in accordance with regulations made under section 54.7 of the *Residential Tenancies Act* have the authority provided in those regulations for the purpose of resolving disputes arising in respect of matters under this Act.

Right to apply to Dispute Resolution Service

59.3(1) Where a landlord has a dispute with a tenant and has a right to apply to a court under Part 3 for a remedy, the landlord may apply to the Dispute Resolution Service instead of the court for the remedy, except

- (a) where section 32.1 applies, or
- (b) with respect to the right to apply to the Court of Queen’s Bench under section 35.

(2) Where a tenant has a dispute with a landlord and has a right to apply to a court under Part 3 or to commence an action in a court under Part 4 for a remedy, the tenant may apply to the Dispute Resolution Service instead of the court for the remedy, except with respect to the right to apply to the Court of Queen’s Bench for specific performance of a covenant under section 40(a).

(3) No application may be made to the Dispute Resolution Service if an application to a court has been filed with the clerk of that court by either party to the dispute

- (a) for the remedy sought under subsection (1) or (2), or
- (b) for any other remedy that is available under Part 3 or Part 4 to resolve a related dispute between the parties,

unless the application to the court is first withdrawn.

Effect of application to Dispute Resolution Service

59.4(1) A landlord's application to the Dispute Resolution Service for a remedy binds the tenant in respect of whom the remedy is sought to the choice of that forum.

(2) A tenant's application to the Dispute Resolution Service for a remedy binds the landlord in respect of whom the remedy is sought to the choice of that forum.

(3) Where an application has been filed with the Dispute Resolution Service by one party to a dispute, no application may be made to a court by either party to the dispute

- (a) for the remedy sought under section 59.3(1) or (2), or
- (b) for any remedy that is available under Part 3 or Part 4 to resolve a related dispute between the parties,

unless the application to the Dispute Resolution Service is first withdrawn.

Review before filing with a court

59.5(1) Before any application to a court for a remedy to a dispute under Part 3 or Part 4 may be filed by a clerk of a court, the clerk shall, in accordance with the process set out in the regulations, determine whether an application has been filed with the Dispute Resolution Service

- (a) for the remedy applied for in the application to the court, or
- (b) for any other remedy that is available under Part 3 or Part 4 to resolve a related dispute between the parties to the application to the court.

(2) Where the process referred to in subsection (1) discloses that an application, as described in subsection (1), has been filed with the Dispute Resolution Service, the application to the court shall not be filed except as provided in the regulations.

- (3) Where, on the same day,
- (a) a clerk of a court files an application made by one of the parties to a dispute for a remedy under Part 3 or Part 4, and
 - (b) the Dispute Resolution Service files an application made by the other party to the dispute for any other remedy that is available under Part 3 or Part 4 to resolve a related dispute between the parties,

the application filed with the clerk of the court shall be proceeded with and the application to the Dispute Resolution Service shall be discontinued.

Authority of Dispute Resolution Service

59.6 The Dispute Resolution Service has the authority to order remedies in accordance with the regulations.

Application, proceedings and decision to be in accordance with regulations

59.7(1) An application to the Dispute Resolution Service must be made in accordance with the regulations.

(2) The Dispute Resolution Service must conduct all proceedings and decide all applications to it

- (a) in accordance with and subject to any limitations and restrictions set out in the regulations, and
- (b) in accordance with the rules of practice and procedure and the code of conduct established pursuant to the regulations.

(3) The Dispute Resolution Service must refer to a court an application, dispute or issue that is, in accordance with the regulations, required to be referred to a court.

(4) The Dispute Resolution Service may, in any of the circumstances provided for in the regulations,

- (a) refuse to accept an application to the Dispute Resolution Service, and
- (b) refer an application to the Dispute Resolution Service to a court.

Regulations

59.8 The Lieutenant Governor in Council may make regulations respecting the establishment of an alternative dispute resolution mechanism for the purpose of resolving disputes arising in respect of matters under this Act, including, without limitation, regulations

- (a) respecting the process to be followed by a clerk of a court for the purposes of section 59.5;
- (b) respecting applications to the Dispute Resolution Service, including applications that include a claim for damages, compensation or other relief that exceeds the amount prescribed by regulations for the purposes of section 9.6(1) of the *Provincial Court Act*;
- (c) respecting the kinds of applications, disputes and issues that are required to be referred to a court by the Dispute Resolution Service;
- (d) respecting the circumstances in which the Dispute Resolution Service
 - (i) may refuse to accept an application to the Service, or
 - (ii) may refer to a court an application to the Service;
- (e) respecting the proceedings before the Dispute Resolution Service and the establishment of rules of practice and procedure governing those proceedings;
- (f) respecting the establishment of a code of conduct for tenancy dispute officers;
- (g) respecting the powers and duties of tenancy dispute officers;
- (h) respecting the matters that tenancy dispute officers may or must consider when dealing with a dispute;
- (i) respecting the remedies that the Dispute Resolution Service is authorized to order, including orders providing for costs;
- (j) respecting limitations and restrictions on the Dispute Resolution Service's authority to order a remedy;

- (k) respecting terms and conditions that may be included in an order of the Dispute Resolution Service;
- (l) respecting the effect of an order and how it may be enforced, including regulations authorizing the order to be filed in the Court of Queen's Bench and, on filing, to be enforced as an order of that court;
- (m) respecting the appeal of an order to the Court of Queen's Bench on a question of law or jurisdiction;
- (n) respecting the fees that may be charged by the Dispute Resolution Service and providing for the waiver of any fee;
- (o) respecting forms for the purposes of this Part and providing for their use;
- (p) respecting the service of notices, documents or orders;
- (q) defining, for the purposes of this Part and the regulations made under this Part, any word or phrase that is used in this Part but is not defined;
- (r) respecting any matter or thing that the Minister considers necessary or appropriate to carry out the intent and purposes of this Part.

4 This Act comes into force on Proclamation.

4 Coming into force.

