



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PARKBRIDGE LIFESTYLE COMMUNITIES INC. and 0856123 B.C.  
LTD. o/a G & R MANUFACTURED HOMES  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      OPR MNR MNDC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on February 3, 2014, by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for: money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; unpaid rent or utilities; and to recover the cost of the filing fee from the Tenants for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Landlord and gave affirmed testimony. No evidence was received by the Tenant at the *Residential Tenancy Branch* and neither party indicated that any evidence had been served by the Tenants to the Landlord.

The Landlord was represented by L.M., an Agent, (hereinafter referred to as Landlord) and the respondents were represented by R.V.N., (hereinafter referred to as Tenant). Accordingly, for the remainder of this decision, terms or references importing the singular shall include the plural and vice versa.

At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

### Issue(s) to be Decided

1. Is R.V.N. a respondent to this dispute?
2. Has the Landlord proven entitlement to an Order of Possession, pursuant to section 48 of the *Manufactured Home Park Tenancy Act*?

3. Has the Landlord proven entitlement to a Monetary Order, pursuant to section 60 of the *Manufactured Home Park Tenancy Act*

### Background and Evidence

It was undisputed that a written tenancy agreement was executed for a month to month tenancy that commenced on October 1, 2010. The Tenants are required to pay rent on the first of each month which began at \$755.00 per month and has subsequently been increased to \$823.13 per month.

The Landlord testified that the Tenants failed to pay rent for October 2013 and after the Tenant continued to stall for several months a 10 Day Notice to end tenancy was served upon the Tenants on December 2, 2013, by registered mail, as provided in their evidence. Rent remains unpaid as of this hearing and the Landlord is seeking an Order of Possession and a Monetary Order for the unpaid rent, late payment fees, and overholding charges. The Landlord confirmed that there was a clerical error made when referencing rent owed and he referred to the tenant ledger provided in their evidence for the correct amount owing.

The Tenant testified and disputed the names which were listed as respondents to this dispute. He argued that his personal name, R.V.N. should not be listed as a respondent as he is not the tenant; his Numbered Limited Company (hereinafter referred to as the Numbered Company) is the tenant. He submitted that he has been in the manufactured home business since 2009 where he sets new manufactured homes in parks and sells them. He requested that his personal name be removed from this dispute as he has no personal involvement with this tenancy dispute.

The Tenant pointed to a letter issued by the Landlord on January 09, 2014, and provided in their evidence. He argued that this letter was evidence that he was not a tenant as it addressed him as the Director of his company. He stated that he is the sole principle of the Numbered Company and it is the Numbered Company who is the tenant and who owes the rent to the Landlord.

The Tenant continued to argue his position and stated that "I entered into a tenancy agreement with" the landlord named on the tenancy agreement and not the applicant to this dispute. He submitted that the manufactured home park was sold to this new landlord about a year ago, "or so he had been told". He argued that he had not received anything in writing that would indicate the applicant was his Landlord; nor has he signed a tenancy agreement with this Landlord. He claimed that he continues to pay rent by cheque or money orders made payable to the previous named landlord.

The Tenant confirmed receipt of the 10 Day Notice and stated "if my company owes that money I have no problem paying it". I asked the Tenant why he had not paid the rent and he responded by saying: "I haven't got the money to pay it".

The Tenant pointed to page 9 of the tenancy agreement, provided in evidence, and argued that because the Numbered Company name is listed below his signature that is evidence that he has no personal obligations.

The Landlord responded by stating the Tenant's implied naivety about the existence of the new landlord is absurd. The Landlord has owned this property for 14 months and they attended many meetings with this Tenant, some of which the Agent attended. He questioned the Tenant about a meeting which was held on September 30, 2013 to which the Tenant confirmed being in attendance and confirmed he know of this Landlord.

The Landlord argued that their letter of January 09, 2014 is not sufficient proof that R.V.N. is not a tenant. He references several pieces of correspondence generated by R.V.N. to the Landlord, regarding this tenancy, which lists only R.V.N.'s personal name. He also pointed to the application for tenancy which clearly shows 2 co-applicants, the Numbered Company and R.V.N. The Landlord then pointed to the tenancy agreement provided in evidence and argued that the names are listed as co-tenants and that they are jointly and severally liable.

Item #1, on page 1, of the tenancy agreement lists the tenant(s) as follows:

***Tenant's Legal Name:*** *Numbered Company (R.V.N.)*

The bottom portion on page 9 of the tenancy agreement states:

**36. JOINT AND SEVERAL LIABILITY:**

*Obligations upon the tenant shall be joint and several obligations if there is more than one tenant. If there is more than one landlord, the landlord's obligations shall be joint and several.*

*THE TENANT HEREBY ACKNOWLEDGES HAVING READ THIS TENANCY AGREEMENT AND AGREES TO THE PROVISIONS AND TERMS CONTAINED HEREIN AND ACKNOWLEDGES RECEIPT OF A DUPLICATE COPY. The parties intending to be legally bound, agree to the terms and conditions of this Agreement.*

*Dated at Surrey, British Columbia, this 17<sup>th</sup> day of September 2010.*

TENANT'S SIGNATURE: \_\_\_\_\_  
*R.V.N.*  
*Numbered Company (R.V.N.)*

The Landlord argued that the Tenant's personal name is also listed below his signature, along with the Numbered Company name. He submitted that this Tenant has tenancy agreements at five sites in this park and with each one he has represented himself both as an individual and as a corporation and they have numerous pieces of correspondence which list only his personal name and not the Numbered Company or his title with that company.

The Landlord argued that the Tenant never once raised the issue of not being personally involved or not being a tenant with the Landlord until action against him was initiated. The Landlord stated that the Tenant is attempting to avert his responsibilities and hide behind a corporate veil. While he may be the directing mind of his Numbered Company there is no piercing of the corporate veil here as he is listed as a co-tenant.

The Landlord submitted a copy of a letter dated December 30, 2013, which was issued by the Tenant indicating the letter constituted 30 days Notice effective January 1, 2014. The letter is signed as follows:

*Numbered Company name,*

*“a signature”*

*per: R.V.N.,  
Director.*

In closing, the Tenant argued that he was not a co-applicant to the tenancy, he has no personal business with this Landlord, there is no veil being cut away here, and the rents are paid by his company. He stated that of course he knew about the new Landlord and argued that if they wanted him personally responsible they should have made a request that he sign a new tenancy agreement with the new Landlords. The Tenant confirmed that he is not disputing the fact that rent is owed to the Landlord; he is only disputing that it is his Numbered Company that owes the rent and not him.

#### Analysis

I have carefully considered the foregoing and all relevant documentary evidence submitted by the Landlord; and on a balance of probabilities I find as follows:

Section 2 (1) of the *Manufactured Home Park Tenancy Act* (hereinafter referred to as the Act), stipulates that despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, manufactured home sites and manufactured home parks.

Under the Act, landlords are required to prepare a written tenancy agreement and provide a copy to the tenant. The parties to a tenancy agreement, landlord(s) and tenant(s), are to be named in the tenancy agreement. The written tenancy agreement, as with any contract, reflects the terms the parties agreed upon when the tenancy or contract formed. As such, the written tenancy agreement must reflect all parties and terms to the agreement.

In this case the Landlord testified that the Tenant made application for tenancy listing his Numbered Company name and R.V.N. as co-tenants. The Landlord then prepared a nine page tenancy agreement and the parties executed this document. The tenancy agreement provides space to list the landlord and tenant(s) who are the parties to the

agreement. In this case the tenancy agreement indicates at item # 1 that the agreement was entered into between the Landlord and the *Numbered Company and (R.V.N.)*

Section 84 of the Act provides that the common law applies to landlords and tenants unless modified or varied under the Act. Under the Parol Evidence Rule of contract law, where the language of a written contract is clear and unambiguous, then no extrinsic parol evidence (written or oral) may be admitted to alter, vary or interpret in any way the words that are written in the agreement. When there is no ambiguity in a written contract it must be given its literal meaning. Words must be given their plain, ordinary meaning unless to do so would result in an absurdity.

The Parol Evidence Rule prevents a party to a written contract from presenting extrinsic evidence that contradicts or adds to the written terms of the contract that appear to be whole. The rationale for this rule is that since the contracting parties have reduced their agreement to a final written agreement, extrinsic evidence should not be considered when interpreting the written terms, as the parties had decided to ultimately leave them out of the contract.

I find the Tenant's testimony that he is not a tenant to this dispute because the Landlord's letter of January 09, 2014, correctly lists him as Director of the Numbered Company, to be extrinsic parol evidence. Therefore, I must determine whether there is a basis to consider the parol evidence.

In order to consider the Tenants' parol evidence I must be satisfied that the wording of the tenancy agreement is unclear or ambiguous or that there is some other basis in law that would warrant consideration of the parol evidence.

Section 1 of the Act provides definitions and states that a "**tenant**" includes the estate of a deceased tenant, and when the context requires, a former or prospective tenant.

The *Residential Tenancy Policy Guideline # 13* defines co-tenants as two or more tenants who rent the same property under the same tenancy agreement. Co-tenants have equal rights under the tenancy and are jointly and severally responsible for any debts or damages relating to the tenancy. That means the landlord can recover the full amount owed from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Upon review of how the Tenants' names are listed on the tenancy agreement, as copied above, I note that despite his name being within brackets, there is no indication that R. V. N. is listed on this contract simply because he is the Director or any other principle of the Numbered Company. R.V.N.'s position as Director is not listed anywhere on this tenancy agreement, specifically not where his name is written in the tenant section or on page 9 of the tenancy agreement where he provided his signature.

There is no indication that R.V.N. was signing his name "per"; or "for" or "on behalf of" or as "Director" or signing authority for the Numbered Company; as he did in his December

2013 notice he wrote to the Landlord to end his tenancy. Rather, his signature is there directly above his own name and the Numbered Company.

I also note that R.V.N.'s signature on page 9 of the tenancy agreement is directly below section 36 which states:

**36. JOINT AND SEVERAL LIABILITY:**

*Obligations upon the tenant shall be joint and several obligations if there is more than one tenant. If there is more than one landlord, the landlord's obligations shall be joint and several.*

If R.V.N. truly intended not to be a party or signatory to this tenancy agreement it is reasonable to conclude that he would not have allowed his name to be listed in the tenant section of the tenancy agreement. Furthermore, he would not have accepted the terms of the agreement without listing his title or that he was signing on behalf of the Numbered Company, directly below the section which clearly outlines his obligations of being joint and severally liable.

Based on the above analysis, I find there is no basis to consider the Tenants' evidence that he is not a tenant to this dispute. Accordingly, I accept the Landlord's submission that the respondents to this dispute are correctly named as parties to the tenancy agreement and that there is no piercing of the corporate veil, as reflected in the style of cause of this decision.

Section 1 of the Act defines a "**Landlord**" in relation to a manufactured home site, includes any of the following:

- (a) the owner of the manufactured home site, the owner's agent or another person who, on behalf of the landlord, permits occupation of the manufactured home site under a tenancy agreement;
  - (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);**
  - (c) a person, other than a tenant whose manufactured home occupies the manufactured home site, who
    - (i) is entitled to possession of the manufactured home site, and
    - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the manufactured home site;
  - (d) a former landlord, when the context requires this;
- [my emphasis added].

Based on the above definition of a landlord the rights and obligations of a landlord run with the land or reversion. Accordingly, I do not accept the Tenant's argument that he was not a tenant of the new owners of the manufactured home park because they did

not have him sign a new tenancy agreement. All previous tenancy agreements stay in full force and effect when a property is sold, until such time as the tenancy agreement is amended in writing or the tenancy ends in accordance with the Act.

When a tenant receives a 10 Day Notice to end tenancy for unpaid rent they have (5) days to either pay the rent in full or to make application to dispute the Notice or the tenancy ends.

The Tenant confirmed receipt of the 10 Day Notice which was served to him by registered mail on December 2, 2013. The Tenant is deemed to have received the Notice on December 7, 2013, five days after it was mailed, and the effective date of the Notice is **December 17, 2013**, in accordance with section 48 of the Act.

The Tenants did not pay the rent and did not dispute the Notice, therefore, the Tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the manufactured home park site to which the notice relates, pursuant to section 48(5) of the Act. Accordingly, I approve the Landlord's request for an Order of Possession.

The Landlord claimed accumulated unpaid rent of \$2,519.37, which includes December rent and late payment fees, as per the tenant ledger provided in evidence. The Tenant failed to pay rent in accordance with the tenancy agreement which is a breach of section 20 of the Act. Accordingly, I award the Landlord the undisputed monetary award for unpaid rent and late fees up to December 31, 2013, of **\$2,519.37**.

As noted above this tenancy ended on **December 17, 2013**, in accordance with the 10 Day Notice. Therefore I find the Landlord is seeking money for overholding or use and occupancy of the manufactured home site for the period of January, February, March, and April, 2014. The manufactured home site is still occupied which means the Landlord will not regain possession until after service of the Order of Possession. Therefore, I find the Landlord is entitled to use and occupancy and any loss of rent for the entire months of January through to April, 2014, in the amount of **\$3,292.52** (4 x \$823.13).

The Landlord has been successful with their application; therefore I award recovery of the **\$100.00** filing fee

### Conclusion

I HEREBY FIND the Landlord is entitled to an Order of Possession effective **2 Days after service upon the Tenants**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order in the amount of **\$5,911.89** (\$2,519.37 + \$3,292.52 + \$100.00). This Order is legally binding and must be served

upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: March 31, 2014

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Residential Tenancy Branch



