



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, O

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking an order for monetary compensation and for an order for the Landlords to comply with the Act or tenancy agreement.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue(s) to be Decided

Is the Tenant entitled to monetary compensation or an order that the Landlords comply with the Act?

### Background and Evidence

This tenancy began in May of 2011, with the Tenant purchasing a manufactured home from the previous owner of the manufactured home. The manufactured home was located on a rental site supplied by the Landlords. There was no written tenancy agreement between the parties, although an oral agreement with the previous owner of the manufactured home had been established. When the Tenant purchased the property it appears both parties accepted the terms of the oral agreement already in place.

At the outset of the tenancy in May of 2011, the Tenant was paying \$300.00 per month for the rental site which included electricity.

The Landlords sent the Tenant a letter dated March 30, 2013, in which they state they want to, "... change the arrangements for the rental of the trailer pad..."

In the letter the Landlords set out that they need to start having the Tenant pay for electricity consumption and have an increase of \$10.00 a month in rent.

The Tenant testified and submitted in writing that he agreed to the rent increase and his paying the electricity bill at the time. He sent the Landlords an email stating he was, "... good with the new terms."

The Tenant testified he accepted the rent increase and change in the electrical arrangement at that time; although in this Application he disputes the Landlords were able to change the tenancy agreement to provide that the Tenant would pay for electricity.

In or about September or October of 2013, the Tenant wrote to the Landlords asking for a letter of reference for his bank, proving that he had been good paying the rent and the electrical bill. The Landlords supplied a reference letter.

In or about December of 2013, the Tenant requested a written tenancy agreement be prepared in support for an application he was making for financial assistance.

According to the submissions of the Landlords, the Tenant requested that this written tenancy agreement be 'back-dated' to May 1, 2011, to support his application for financial assistance. The written tenancy agreement sets out that the tenancy started on May 1, 2011, and that electricity was not included in the rent. Both the Tenant and the Landlords signed the written tenancy agreement on December 13, 2013.

In or about June of 2014, the Tenant and the Landlords had a dispute regarding the Tenant's parents coming for a visit and erecting a tent for them to stay in at the rental site. The Tenant submits in this Application that it was during the course of this dispute that he learned about his rights under the Act and the Landlords', "... unfair decision to impose this change to a material term [of] our agreement."

The Tenant moved the manufactured home off the rental site in July of 2014.

During the course of the hearing the Tenant also claimed he had overpaid for electrical services, alleging he had been paying for the manufactured home and the electrical service for a holiday rental home owned by the Landlords adjacent to the subject rental site.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

I find the Tenant's Application must be dismissed without leave to reapply, with the one exclusion as noted below.

I find that this tenancy was established and continued under the *Manufactured Home Park Tenancy Act* (the "Act"). At the outset of the tenancy the original terms of the tenancy agreement with the previous owner were the terms for this tenancy. In other words, the tenancy agreement with the previous owner carried through to this Tenant when he became the owner of the home and continued renting the same site. This is in accordance with the Act.

Under the Act, the Landlord may only impose a rent increase up to the amount prescribed in the regulations, or as ordered by the director, *or as agreed to in writing by the Tenant* pursuant to section 36(1)(c)). [Emphasis added.]

I find the parties began the tenancy relationship with an oral tenancy agreement which provided that the electricity was included with the rent. During the course of the tenancy the Landlords wanted to increase the rent and have the Tenant pay directly for the electricity. These are both changes that are normally interpreted as changes to material terms in a tenancy agreement. In the normal course, the Landlords were required to provide a formal Notice to Increase the Rent and a notice to the Tenant that they wanted to change the provision of the electrical service to the Tenant. The Act requires these to be in writing and be in the approved form. While the Landlords did provide the Tenant with a letter, this was not in the approved form for these types of changes. Nevertheless, the Tenant did not dispute these changes and agreed to them both in writing. Furthermore, the legislation does allow the Tenant to agree to such changes as long as the Tenant's agreement is in writing.

Had the Tenant not agreed to these new terms proposed in March of 2013, one or both of the parties may have filed for Dispute Resolution to have the dispute resolved.

However, in this case the Tenant agreed to these terms, in writing through his email and by signing the written tenancy agreement, and by his ongoing behaviour in paying the bills without dispute for several months. I find the Landlords were entitled to treat these actions and the Tenant's written agreement to the terms as proof that the Tenant had accepted the new terms of the tenancy agreement as proposed in their letter of March of 2013.

As the Tenant agreed to these changes, it is not open to him to return several months later and dispute a portion of the mutually agreed upon terms. Therefore, I dismiss the claims of the Tenant in the present Application without leave to reapply.

However, during the course of the hearing, the Tenant raised the issue that he may have been paying for the electricity for the vacation home as well as the rental site for the subject manufactured home for those months he paid electricity. This issue was not in his Application and the Landlords had no notice he would raise this claim and I did not hear evidence on the merits of this claim. For these reasons, I dismiss this portion of the Tenant's claim with leave to reapply.

### Conclusion

The Tenant agreed in writing to the new terms of the tenancy agreement and therefore, is unable to dispute these terms now. The Tenant's Application is dismissed without leave to reapply; however, the Tenant's claims as to an alleged overpayment of electricity as described above are dismissed with leave to reapply.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 24, 2014

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Residential Tenancy Branch

