



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PARKBRIDGE LIFESTYLE COMMUNITIES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC PSF

### Introduction

This hearing was conducted via teleconference on July 23, 2014 after which an Interim Decision was issued on July 24, 2015 ordering the submission of additional documentary evidence from each party. Accordingly, this Decision must be read in conjunction with the Interim Decision dated July 24, 2015.

### Issue(s) to be Decided

1. Should the Landlord be ordered to comply with the Act, regulation or tenancy agreement?
2. Has the Tenant proven that the Landlord has failed to provide services or facilities required by law?
3. Is the Tenant entitled to orders that would grant him the authority to park his vehicles anywhere in the Park or at common areas or facilities throughout the Park property?
4. Is the Landlord entitled to an Order requiring the Tenant to cease parking vehicles in common areas, in visitor parking, and on no-parking roadways?
5. Should the Tenant be ordered to remove articles stored in his Carport?

### Background and Evidence

Each party submitted evidence that the Tenant entered into a month to month tenancy agreement on January 26, 2011. However, there was no site number listed on the tenancy agreement that was signed on that date. The Tenant testified that he had owned two homes in this Manufactured Home Park (the Park) and that he recalled purchasing the one in dispute sometime around February 2012.

The Tenant testified that he had been “bullied” by his former landlord and now this new Landlord is continuing the bullying behavior by issuing him letters telling him they are going to evict him if he does not remove some of his cars, he does not remove stuff from his carport, and if he does not remove his truck from where it is parked near the garbage bin.

The Tenant affirmed that he had received a copy of the four page document titled "Tenancy Rules & Regulations" from the previous owner(s), as provided at pages 23 -26 in the Landlords' documentary evidence. The Tenant confirmed that he had refused to sign this and another documents issued by the previous owner(s) as well as any documents issued from the current owner because they both have been bullying him and have been trying to raise his rent.

The Tenant submitted that the Landlord's Regional Manager gave him until June 18, 2015 to have his carport cleaned out. He argued that at the time of the July 23, 2015 hearing he had moved everything except for his truck which was still parked by the garbage bins.

The Tenant argued that his truck was parked in an unused area which was not part of the Visitors parking area. The Tenant was insistent that the Landlords had no authority to tell him that he could not park his truck by the garbage bins and he refused to move it until such time as he was ordered to do so from the Residential Tenancy Branch (RTB).

The Landlords submitted that the new owners took over the Park as of March 4, 2015 and that they have been working with residents to establish processes in the management of the Park. The Park was built in 1957 and was described as being built with very narrow roadways; as such, parking is not permitted on the roadways. There are numerous no parking signs and towing signs posted throughout the Park as well as signs posted in the designated Visitor parking area which has been established for temporary visitor parking and not for a tenant's use.

The Landlords argued that there are copies of numerous letters regarding parking violations on the Tenant's file which predate their purchase of the Park. Copies of those letters were submitted in their documentary evidence. In June 2015 they noted that the Tenant had 2 vehicles and 1 motorbike parked in his carport, 1 motorbike parked on the roadway, 2 vehicles parked at the laundry facility, 2 vehicles parked in a neighbor's carport.

The Landlords asserted that they have received numerous complaints from other tenants who have complained about the excessive amount of vehicles the Tenant has parked throughout the Park and with being blocked in their own driveways because of vehicles the Tenant has parked on the roadway. Copies of complaints were submitted in their documentary evidence. The Landlord noted that they have recently witnessed the Tenant changing the oil in a vehicle that was parked in the visitors' parking area, as supported by the photograph submitted in their evidence.

The Landlords testified that they have been patient with the Tenant, issuing him warning letters in an attempt to inform him that he needs to follow the Park rules and if he fails to do so they will seek eviction. The Landlords asserted that given the volume of warning letters issued to the Tenant in the past and with the ample signage posted throughout the Park the Tenant cannot argue that he is unaware of the no parking rules. The Landlords pointed to their evidence of the sign placed inside the Tenant's truck which

has continuously been parked in the Visitors' parking area and is visible to all who drive into the Park.

The Tenant confirmed that he has been parking his truck in what he referred to as being behind the garbage bins. He confirmed also that he has placed the sign in his truck as displayed in the Landlords' photographic evidence. When asked why he refuses to remove his truck he stated that he did not like the tone of the Landlord's letter, there are no signs where his truck is parked stating that it is Visitors' parking, he refuses to be bullied, and he simply will not move the truck until he is ordered by the RTB to do so.

As indicated above, the parties were ordered to submit additional evidence as listed on page 4 paragraph 4 of the Interim Decision as follows:

*As per the foregoing, I ordered the Landlord and Tenant to submit copies of the Tenant's tenancy agreement and Park Rules and Regulations. I further ordered that no additional evidence may be submitted. Upon receipt of the additional documents a legally binding decision will be issued to both parties.*

On July 23, 2015 a fourteen page fax was received from the Landlord. The fax consisted of the following: a one page fax cover sheet; an eight page document that is unsigned and titled "Manufactured Home Site Tenancy Agreement"; a one page document titled [Park name] "Mobile Home Estates" signed by the Tenant on Jan 26, 2011; and a four page unsigned document listing two Park's names and titled "Tenancy Rules & Regulations".

On July 27, 2015 the Service BC Office received ten pages of evidence from the Tenant which included copies of: 1 page of the Notice of Dispute Resolution Hearing document; the one page document titled [Park name] "Mobile Home Estates" signed by the Tenant on Jan 26, 2011; a 5 page document included the cover letter dated June 17, 2015 issued by the Landlord with the 4 pages titled "Addendum to the Tenancy Agreement; a one page letter dated June 16, 2015 issued by the Landlord with hand written comments on it; a 1 page fax communication report with comments; and a 1 page document with hand written comments with a photograph.

The document titled "[Park name] Mobile Home Estates" is dated Jan 26, 2011, has the Tenant's signature and printed name, and underneath the date states "To be updated".

The document titled "Tenancy Rules & Regulations" states in part, as follows:

***General Conditions***

*D. Homeowner is solely responsible to maintain their site, landscaping and keep home in good repair, and in a neat, clean and sanitary condition.*

*H. No parking in [Park name] roadways will be allowed due to safety concerns for emergency vehicles access. No parking is allowed on front or side yards, on lawns or landscaped areas. No boats, utility trailers, etc. or trucks over ¾ tonnes*

*are allowed parked at tenant home or in visitor parking areas. Parking of these vehicles is only allowed in designated holding areas. Please contact management.*

***Maintenance of Home Site***

***C. Storage not allowed in carport or driveway***

Analysis

Section 1 of the *Act* defines a "**tenancy agreement**" to mean an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a manufactured home site, use of common areas and services and facilities.

Section 14 of the *Act* provides how changes may be made to a tenancy agreement as follows:

- 14** (1) A tenancy agreement may not be amended to change or remove a standard term.
- (2) A tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment.
- (3) The requirement for agreement under subsection (2) does not apply to any of the following:
- (a) a rent increase in accordance with Part 4 of this *Act*;
  - (b) a withdrawal of, or a restriction on, a service or facility in accordance with section 21 *[terminating or restricting services or facilities]*;
  - (c) park rules established in accordance with section 32 *[park rules]*;
  - (d) a term in respect of which a landlord or tenant has obtained an order of the director that the agreement of the other is not required.

In addition to creating a tenancy agreement, section 32 of the *Act* provides that a landlord or park committee may create Park rules as follows:

The Regulations provide for the changing or creation of rules as follows:

- 29** (2) Subsequent to a tenant's entering into a tenancy agreement with a landlord, the landlord must give notice in writing to that tenant of any rule at least two weeks before the rule becomes effective.
- 30** (1) The park committee or, if there is no park committee, the landlord, may establish, change or repeal a rule if it is reasonable in the circumstances and if the rule has one of the following effects:
- (a) it promotes the convenience or safety of the tenants;

- (b) it protects and preserves the condition of the manufactured home park or the landlord's property;
    - (c) it regulates access to or fairly distributes a service or facility;
    - (d) it regulates pets in common areas.
  - (2) If there is a park committee, the rules must be established, changed or repealed according to the procedure set out in sections 22 [*park committee decisions*] and 23 [*vote by landlord and tenants*].
  - (3) A rule established, or the effect of a change or repeal of a rule changed or repealed, pursuant to subsection (1) is enforceable against a tenant only if
    - (a) the rule applies to all tenants in a fair manner,
    - (b) the rule is clear enough that a reasonable tenant can understand how to comply with the rule,
    - (c) notice of the rule is given to the tenant in accordance with section 29 [*disclosure*], and
    - (d) the rule does not change a material term of the tenancy agreement.
- 32** (1) In accordance with the regulations, a park committee, or, if there is no park committee, the landlord may **establish, change or repeal rules** for governing the operation of the manufactured home park.
- (2) Rules referred to in subsection (1) must not be inconsistent with this Act or the regulations or any other enactment that applies to a manufactured home park.
- (3) Rules established in accordance with this section apply in the manufactured home park of the park committee or landlord, as applicable.
- (4) If a park rule established under this section is inconsistent or conflicts with a term in a tenancy agreement that was entered into before the rule was established, the park rule prevails to the extent of the inconsistency or conflict.

[My emphasis added with bolding]

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

As indicated in my Interim Decision documents that were not requested which are received after the July 23, 2015 hearing, will not be considered for this Decision. Therefore, I have considered the document signed by the Tenant on January 26, 2011 as submitted by both parties, the unsigned Tenancy Agreement, and the unsigned Tenancy Rules and Regulations as submitted by the Landlord as they were specifically requested in my Interim Decision. The remaining documents submitted by the Tenant were not requested and will not be considered.

Upon review of the foregoing documents, I have concluded that the January 26, 2011 document signed by the Tenant is unenforceable in this matter. I make this finding in part because there is no site number listed on the document and because of the Tenant's own submission that he purchased a different home located on a different site in this Park in 2011, which he has since sold. The Tenant testified that he purchased the current home, which is related to this dispute, in February 2012. Therefore, in absence of documentary proof to the contrary, I find the Tenants entered into a verbal tenancy agreement with the previous owner(s) of the Park.

Section 84 of the Act stipulates that except as modified or varied under this Act, the common law respecting landlords and tenants applies in British Columbia. Common law has established that oral contracts and/or agreements are enforceable. Therefore, based on the above, I find that the undisputed terms of this verbal tenancy agreement which include occupation of Site # 7 for payment of the monthly rent are recognized and enforceable under the *Act*.

The eight page unsigned document titled "Manufactured Home Site Tenancy Agreement" was issued by the previous owner(s) in what appears to be an attempt to create a tenancy agreement in writing. The undisputed evidence is that the Tenant refused to sign this new tenancy agreement; therefore, I find the original verbal tenancy agreement remains in full force and effect.

That being said, the Tenant's refusal to sign a subsequent or written tenancy agreement does not preclude or prevent the Landlord from establishing Park Rules in accordance with section 29(2) of the Regulations.

As listed above, section 29(2) of the Regulation stipulates that a landlord must give notice in writing to a tenant of any rule, at least two weeks before the rule becomes effective. Neither the *Act* nor the Regulation stipulates that the Tenant must sign in agreement of the new rule(s) prior to the implementation or effectiveness of the Park rules.

Furthermore, it is common practise that landlords have tenants sign receipt of Park Rules to ensure that all parties are properly notified of the rules in writing and in order to ensure new rules do not become effective until two weeks after the rules were received by the tenant. In this case the Tenant refused to sign receipt of the document titled "Tenancy Rules & Regulations" which was issued by the former owner(s). Therefore, there is insufficient evidence to prove the exact date the Tenant received a copy of the new rules that were listed in this document. That being said, the Tenant provided affirmed testimony that he first received a copy of this document from the previous owner(s) which was prior to the new owners taking possession in March 2015.

Based on the above, I find the Tenant was provided a copy of the current Tenancy Rules & Regulations prior to March 2015 which is at least two months prior to being issued the May 28, 2015 letter from the current Landlord regarding "Unauthorized Parking". Accordingly, I find these rules to be in full force and effect.

As listed above, Section H of the "Tenancy Rules & Regulations" stipulate rules regarding no parking on roadways, front or side yards, lawns, or on landscaped areas. It specifically states that no trucks over  $\frac{3}{4}$  tonnes or recreation vehicles or trailers are allowed to be parked in the "visitor" parking area.

In this matter it is reasonable to conclude that by its very nature, a parking area which is designated as a Visitors parking area is for the use of those who come to the Park to visit and not for the fulltime use of residents of the Park. Furthermore, it is reasonable to conclude that parking spaces at a laundry facility located in a senior's Park are for the short term use of those residents who need to drive to the laundry facility instead of walking and carrying their laundry to the laundry building; and are not to be used fulltime or long term parking. Furthermore, parking of a vehicle close to a commercial garbage bin may inhibit the garbage truck driver's ability to pick up and set down the large bin safely.

Notwithstanding the Tenant's submission that the area where his truck is parked by the garbage bin is currently not in use with no signage regarding Visitor's parking, I accept the Landlords' submissions that the Tenant's truck is parked in an area designated by the Landlords to be a Visitor's parking area or an area not intended for long term parking. The undeniable evidence confirms that the Tenant's truck has been parked in this area consistently for several weeks, if not months, despite the Landlords' written requests to have it removed.

Based on the above, I conclude that the Landlord is entitled to enforce Park rules, without a tenant's written permission or agreement to such rules, providing the Tenant receives a copy of the rules in writing two weeks prior to the enforcement of the rules and providing the Park rules meet the requirements of section 30(3) of the Regulation as listed above.

I further conclude that the Landlord is entitled to enforce rules and regulations regarding parking as the evidence supports that the parking rules are applicable to all tenants in a fair manner, the rules are clear and have been communicated to the Tenant in writing, the Tenant received notice of the rule numerous times, and the rule does not change a material term of the tenancy agreement. Accordingly, I hereby order the Tenant to remove his truck from its location beside the garbage bins no later than **August 7, 2015**.

In addition to the forgoing, I hereby order the Tenant to cease parking vehicles in common areas, in visitor parking, in designated no parking areas, and on no-parking roadways effective **immediately upon receipt of this Decision**.

In response to the matters relating to the storage of items inside the Tenant's carport, I hereby order the Tenant to comply with the Park rules pertaining to the maintenance of sites which states "*storage not allowed in carport or driveway*." All items stored in the Tenants carport are to be removed no later than **August 10, 2015**.

Section 72(1) of the Act stipulates that the director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.

The Landlord has succeeded with their application; therefore, I award recovery of the **\$50.00** filing fee, pursuant to section 72(1) of the Act.

In response to the Tenant's application for orders to have the Landlord comply with the Act, regulation or tenancy agreement, and provide services or facilities required by law, I find these requests to be meritless. There was no evidence before that would support such requests. Accordingly, I dismiss the Tenants' application in its entirety.

### Conclusion

The Landlord has been successful with their application and the Tenant has been issued Orders to: (1) remove his truck from beside the garbage bins no later than **August 7, 2015**; (2) cease parking all vehicles in common areas, in visitor parking, in designated no parking areas, and on no-parking roadways effective **immediately** upon receipt of this Decision; and (3) remove all items stored in the carport in violation of the Park Rules no later than **August 10, 2015**.

The Landlord has been issued a Monetary Order in the amount of **\$50.00** as full recovery of their filing fee. This Order is legally binding and must be served upon the Tenant.

The Tenant was not successful with his application and it was dismissed in its entirety.

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: July 30, 2015

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Residential Tenancy Branch



