



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CEDAR GROVE MOBILE HOME PARK  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      O, FF

### Introduction

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

- authorization to recover their filing fee for this application from the tenant pursuant to section 65;
- an "other" remedy.

The landlords' "other" remedy seeks an order that the tenant comply with the tenancy agreement, including the park rules for the manufactured home park, pursuant to subsection 55(3) of the Act.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The corporate landlord was represented by the individual landlord (the landlord) and counsel.

The landlords provided a sworn declaration that the tenant was served with the dispute resolution package on 28 July 2015 by registered mail. The tenant attended the hearing and did not raise any issues with service. I am satisfied that the tenant was served with the dispute resolution package pursuant to section 82 of the Act.

### Issue(s) to be Decided

Are the landlords entitled to an order that the tenant comply with the terms of the tenancy agreement including the park rules? Are the landlords entitled to a monetary order to recover their filing fee?

## Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began in March 1994. The tenant currently pays \$522.64 for her site. I was not provided with a copy of a tenancy agreement.

The landlord began management of this park in 2006. The landlord began residence at this park in 2008.

The landlords provided me with park rules dated 15 January 2007 (the 2007 Rules). The landlord testified that he provided the tenant with a copy of the 2007 Rules on 15 January 2007. The landlord testified that these rules were changed in 2014 (the 2014 Rules) to renumber the rules and relax the rules regarding recreation vehicles. The landlord did not recall exactly when he gave the tenant the 2014 Rules, but testified that he provided pages 2 and 3 of the 2014 Rules as enclosures to his letters dated 3 and 4 July 2015.

The 2007 Rules set out at page 2:

1. Only licensed for road use vehicles up to one (1) ton may be parked in your designated Parking space. Unlicensed vehicles are not to be and may not be parked or stored on your rental lot. Parking is not permitted: on park streets, in fire lanes, or on any Neighbor's rental lot. Two (2) Vehicles only to be parked in most driveways. Written permission is needed for more than 2 vehicles. \* PARKING/STORAGE INSURANCE IS NOT ACCEPTABLE. \* UNLICENSED VEHICLES WILL BE TOWED AWAY IF NEEDED AT TENANT EXPENSE.

The 2014 Rules set out at page 2:

21. Only licenced road worthy vehicles up to one (1) ton may be parked on your designated (2) parking spaces. Unlicensed vehicles are not to be and may not be Parked or stored on your rental lot. Parking is not permitted: on park streets, in fire lanes or any neighbor's rental lot, two (2) vehicles only to be parked on your driveway. PARKING/STORAGE INSURANCE IS NOT ACCEPTABLE.

On or about 14 July 2014, the landlord and tenant met to discuss the excess number of vehicles on the site. The landlord testified that he informed the tenant that the rules

could not be changed or bent. The landlord testified that the meeting did not go well and that the tenant walked out of the meeting.

On 15 July 2014, the landlord wrote to the tenant asking her to comply with the park rules.

The landlord wrote to the tenant on 6 January 2015. I was provided with a copy of this letter. The landlord informs the tenant that she cannot have uninsured vehicles on the site. The tenant responded the next day and assured the landlord that the all-terrain vehicle (ATV) would be removed. The landlord wrote to the tenant on 12 June 2015. I was provided with a copy of this letter. The letter reiterates the request to not store uninsured vehicles on the site. The landlord testified that the ATV is still parked on the site and that he has not been provided with proof of insurance.

On 3 July 2015, the landlord wrote to the tenant asking her to remove an "RV/camper" from the site. The landlord testified that from his perspective on the common road the utility trailer resembled a recreational vehicle (RV) trailer. The landlord testified that the utility trailer was the vehicle to which this letter referred. The landlord enclosed pages 2 and 3 of the 2014 Rules with his letter of 3 July 2015.

The tenant responded and corrected the landlord in a handwritten letter that is undated. The tenant informed the landlord that the vehicle was a utility trailer.

On 4 July 2015, the landlord wrote to the tenant largely reiterating his letter of 3 July 2015.

The landlord testified that the tenant has two pickup trucks, a van, an ATV and a utility trailer on her site. The landlord testified that he first noticed the utility trailer in June or July 2015. The landlord testified that he first noticed the ATV in December 2014. The landlord testified that he has not been provided with proof of insurance for the ATV.

The tenant admits that she has in excess of two vehicles on her site at any one time including:

- her truck;
- her van;
- her partner's truck;
- two ATVs; and
- a utility trailer.

The tenant testified that she owns a truck and a van that are parked on the site. The tenant testified that her partner drives a brown truck that will park on the site. The

tenant testified that if her daughter is living there or a friend comes to visit they will also park their vehicles on the site. The tenant testified that her daughter will stay with the tenant from anywhere between one month and one year. The tenant testified that her visitor will visit for approximately a month at a time. The tenant testified that if more than three vehicles are there, then the excess vehicles will park in the visitor parking. The tenant testified that the ATVs are insured. The tenant testified that one of the ATVs is borrowed from a friend for use hunting.

The tenant admits that she is in possession of the 2007 Rules. The tenant admits that she is in possession of pages 2 and 3 of the 2014 Rules.

The tenant set out in her written submissions that she purchased the utility trailer on 2 July 2015. The tenant provided me with proof of insurance for the trailer. The insurance document refers to the trailer as a vehicle. The tenant testified that other occupants of the park are permitted to keep utility trailers on their site. The landlord testified that these occupants only have one other vehicle on their site.

The landlords provided me with photographs. The utility trailer is seen in several photographs. The trailer is a two wheeled vehicle with a hitch for attaching to a motor vehicle. The trailer appears slightly shorter than a small car length. Other photographs show various other vehicles parked on the site.

The tenant provided photographs showing that when the utility trailer is attached to the truck, the entire apparatus is contained on her site and does not spill onto the street. The tenant provided a photograph showing that the utility trailer is not an RV.

The tenant provided me with copies of all versions of the park rules in her control. There is no copy of the 2014 Rules. The various iterations of the rules prior to 2007 do not restrict the number of cars to be parked on the site.

### *Landlord's Submissions*

The landlords submit that there are issues with the type, number and insurance status of vehicles on the tenant's site. The landlords submit that the tenant is in breach of rules 20 and 21 of the 2014 park rules.

The landlords submit that the trailer is a vehicle as it is used on the road to transport and takes up a parking space. The landlords submit that the definition of vehicle should be understood to be the same as from the *Insurance (Vehicle) Act* or the *Motor Vehicle Act*, which both define trailers as vehicles. The landlords submit that the purpose of the

rules is to limit parking on the site and that the utility trailer is occupying one of the tenant's two spaces.

### *Tenant's Submissions*

The tenant submits that the utility trailer is not a vehicle as it is not capable of moving under its own power.

### Analysis

Pursuant to paragraph 13(2)(g) of the Act, park rules form part of the tenancy agreement. I accept, from the tenant's documentary submissions, that the park rules did not contain any restrictions on the number of vehicles on the parking lot prior to the 2007 Rules, including the time that the tenant entered into her tenancy.

Pursuant to subsection 32(1) of the Act, where there is no park committee, a landlord may establish, change or repeal rules for governing the operation of the manufactured home park. Pursuant to subsection 32(4) of the Act park rules prevail over terms in tenancy agreements. Pursuant to subsection 29(1) of the *Manufactured Home Park Tenancy Regulation (the Regulation)* a landlord must give at least two weeks' written notice to a tenant of changes in rules before that rules comes effective.

Pursuant subsection 30(1) of the Regulation:

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.

I find that rules regarding the visual appeal of a manufactured home park, such as those restricting the number of vehicles permitted to park on a site, are for the purpose of preserving the condition of the park. On this basis, I find that the landlords were permitted to place restrictions on the number of vehicles that could park on any one site by way of an amendment to the park rules. The landlords made such an amendment when they changed the park rules in 2007 and introduced the 2007 Rules.

Section 29 of the Regulation requires that a tenant be provided with a copy of the park rules. On the basis of the tenant's and landlord's testimonies, I find that the tenant was

not provided with a copy of the 2014 Rules. Accordingly, those rules are not capable of enforcement on this tenant; however, on the basis of the available documents and testimony before me, it is clear that the tenant was provided with a copy of the 2007 Rules.

Park rules established pursuant to subsection 30(1) of the Regulation are 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.

The tenant has provided testimony that other occupants of the park are permitted to have utility trailers on their sites. The landlord testified that those other parties have no more than one other vehicle on their site. I find that the rule is being applied fairly. Furthermore, I was not provided with any evidence that indicates that the tenant was specifically singled out by the rule amendment. A rule allowing no more than two vehicles except with written permission is clear enough to allow a reasonable tenant to comply with the rule. I was not provided with a written tenancy agreement or testimony that indicates that the permissible number of vehicles on the site was a material term of the tenancy agreement. Pursuant to subsection 30(1) of the Regulation, the rule regarding the number of vehicles is enforceable against the tenant.

The rules specifically set out that no more than two “vehicles” are permitted to be parked in the driveway. The rule does not specify “motor vehicles”. I find that this exclusion is intentional and that the rule is meant to apply to non-motorised vehicles. Further, trailers are considered under BC statute to be vehicles. Finally, the tenant’s own insurance documents refer to the trailer as a vehicle. On this basis, I find that the trailer is a vehicle within the meaning of the park rules.

The tenant has admitted that she parks more than two vehicles (including the trailer) on her driveway. I order that the tenant must comply with the park rules and only have two vehicles parked on her site at any given time, unless she receives permission from the landlords to have more than two vehicles parked on the site.

The older version of the rules and the 2007 Rules require vehicles to be insured. The tenant testified that she has insurance for her ATV. The landlord testified that he has

not been provided with proof of insurance. The tenant is ordered to provide proof of insurance for the ATV to the landlord.

The tenant is ordered to comply with the rules regarding vehicles by 31 October 2015. The tenant is cautioned that failure to comply with this order may be grounds to end the tenancy pursuant to paragraph 40(1)(k) of the Act.

As the landlords were successful in this application, I find that the landlords are entitled to recover the \$50.00 filing fee paid for this application.

### Conclusion

The tenant is ordered to have no more than two vehicles parked on her site at any given time, unless she obtains permission from the landlords to have more than two vehicles on the site. The tenant is ordered to provide proof of insurance for vehicles on the site. The tenant is ordered to comply by 31 October 2015.

I issue a monetary order in the landlords favour in the amount of \$50.00. The landlords are provided with this order in the above terms and the tenant must be served with this order as soon as possible. Should the tenant fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial 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 subsection 9.1(1) of the Act.

Dated: October 02, 2015

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Residential Tenancy Branch