



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REKTREK RESOURCES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on February 26, 2016. The Tenant filed seeking an order to cancel a 1 Month Notice to end tenancy for cause.

The hearing was conducted via teleconference and was attended by the Landlord, the Tenant, and the Tenant's Assistant. The Landlord and Tenant provided affirmed testimony. 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.

On April 6, 2016 the Landlord submitted 9 pages of evidence to the Residential Tenancy Branch (RTB). The Landlord affirmed that he served the Tenant with copies of the same documents that he had served the RTB. The Tenant acknowledged receipt of these documents and no issues regarding service or receipt were raised. As such, I accepted the Landlord's submission as evidence for these proceedings.

The Tenant testified he submitted a copy of the 1 Month Notice. No additional documentary evidence was submitted by the Tenant.

Each party was provided with the opportunity to present relevant oral evidence, to ask questions, and to make relevant submissions. Following is a summary of those submissions and includes only that which is relevant to the matters before me.

### Issue(s) to be Decided

1. Does this matter fall under the *Residential Tenancy Act (RTA)* or the *Manufactured Home Park Tenancy Act (MHPTA)*?
2. Should the 1 Month Notice be upheld or cancelled?

## Background and Evidence

The Tenant has occupied a piece of property adjacent to a manufactured home park, motel, and R.V. Park since sometime in 2010. The current Landlord purchased the property in November 2011.

The Tenant resides in a shed/cabin which is attached to a motorhome. The motorhome provides a kitchen and washroom facilities and the shed/cabin is additional living space. The motorhome and shed/cabin are located in a treed area off of the main road leading up to the manufactured home park.

The Landlord stated that in November 2011, he purchased the section of land which included the Tenant's site, a 7 site manufactured home park; the motel; and an 18 site R.V. Park. The Landlord asserted the purchase price included the motorhome and shed/cabin in which the Tenant now resides and which is known as site "# 11". He said he had a copy of the Tenant's written tenancy agreement; however, he did not submit a copy into evidence.

The Tenant disputed the Landlord's submission and argued he was given the motorhome and shed/cabin by the previous owner. He stated he was not given any transfer papers for the motorhome and he cannot locate the previous owner as he has moved away.

The Landlord submitted evidence he has been getting complaints from tenants of his motel and R.V. Park, as well as from residential neighbors, about the amount of traffic going up to the Tenant's site. The Landlord alleged the amount of traffic coming and going from the Tenant's site is indicative of the Tenant selling drugs.

In addition, the Landlord argued the Tenant's site has so much junk, waste, and garbage that his other tenants have been complaining about it being unsightly and a possible risk for disease. The Landlord asserted he has requested the Tenant remove the junk and stop the amount of traffic going to his place on numerous occasions. He stated when the Tenant failed to take action he issued him a 1 Month Notice to end tenancy.

The 1 Month Notice was issued on February 18, 2016, listing an address as being Unit "#1" and an effective date of March 31, 2015 for the following reasons:

- Tenant or a person permitted on the property by the tenant has:
  - Significantly interfered with or unreasonably disturbed another occupant or the landlord
  - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord
  - Put the Landlord's property at significant risk
- Tenant has engaged in illegal activity that has or is likely to

- Damage the landlord's property
- Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
- Jeopardize a lawful right or interest of another occupant or the landlord
- Tenant has caused extraordinary damage to the unit/site or property park

The Tenant testified and denied the Landlord's submissions that all of the traffic is coming up to his place. He asserted he is being evicted because he refused to work for the Landlord last fall when he had a broken collarbone.

The Tenant confirmed he has possessions stacked on his property and argued the majority of what is seen in the Landlord's photographs is firewood. The Tenant argued it is cost prohibitive for him to have a dumpster brought up to his place to remove the possessions.

The Tenant testified the address, as listed on his application depicting unit "# 11" is not recognized by Canada Post. He asserted his mail must be addressed listing only the street address, which is the Landlord's address.

### Analysis

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

I must first determine if there was sufficient evidence to determine if these matters fell under the *Residential Tenancy Act (RTA)*, the *Manufactured Home Park Tenancy Act (MHPTA)*, or if this situation was simply a license to occupy the property.

If the Landlord owned the motorhome/shed/cabin and was collecting monthly rent for occupancy of them and the property, the tenancy would fall under the *RTA*. If the Tenant owned the motorhome/shed/cabin and rented the property as being a manufactured home park site, the tenancy would fall under the *MHPTA*. It is also possible that this matter falls under a License to Occupy and not the *RTA* or *MHPTA*.

In the case of verbal testimony when one party submits their version of events, in support of their claim, and the other party disputes that version, it is incumbent on the party making the claim to provide sufficient evidence to corroborate their version of events. In the absence of any evidence to support their version of events or to doubt the credibility of the parties, the party making the submission would fail to meet this burden.

The Landlord testified he owned the motorhome/shed/cabin as they were included in his purchase of the property. The Landlord stated he had a copy of the Tenant's written tenancy agreement. However, that tenancy agreement was not submitted into evidence. The Tenant disputed having a tenancy agreement that would fall under the *RTA*.

The Tenant testified he owned the motorhome/shed/cabin as the previous owner told him he could have them prior to selling the property. The Tenant submitted evidence that his "site" was not located with the rest of the sites of the manufactured home park as they were located further up the hill. The Tenant also submitted his site number 11 was not recognized by Canada Post.

After consideration of the above, I find there was insufficient evidence to prove which *Act*, if any, held jurisdiction of this tenancy. In addition, I find the 1 Month Notice issued February 18, 2016 to be invalid as it listed an incorrect rental address of unit "# 1" when the undisputed evidence was the address was in fact unit "# 11".

If the Landlord wishes to proceed with evicting this Tenant/Occupant, he must serve the Tenant with a valid 1 Month Notice to end tenancy. In addition, the Landlord and Tenant must submit sufficient documentary evidence to prove there is a tenancy between the parties, verbal or written; and proof of which *Act*, if any, governs the tenancy, the *RTA* or the *MHPTA*.

### Conclusion

The 1 Month Notice to end tenancy issued February 18, 2016 was determined to be invalid as it listed an incorrect address. Neither party submitted sufficient evidence to prove which *Act* held jurisdiction.

This decision is final, legally binding, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act*.

Dated: April 19, 2016

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Residential Tenancy Branch