



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Malahat Mountain Meadows RV Resort
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, OLC, MNDC

Introduction

The applicant brought an application pursuant to the Residential Tenancy Act of BC for an Order to set aside a rent increase, recovery of excess rent paid and an Order that the landlord comply with the Act.

Issue(s) to be Decided

Is this tenancy subject to the Act?
Has the respondent increased the rent unlawfully?

Background and Evidence

The respondent admitted service of the application.

The applicant testified that owns and had her RV trailer towed to the respondent's Resort Park on January 1, 2016 and pre paid her rent amounting to \$ 550.00 per month for one year in January 2016. The applicant testified that the respondent purported to raise the rent on July 1, 2016 by \$ 25.00 per month without the proper notice, in the incorrect amount and contrary to section 43 of the Act.

The respondent submitted that the applicant is living in a camping trailer, and that he has rented a camping site to her albeit long-term but he is not subject to the Act as a tenancy has not been created.

Analysis

The Residential Tenancy Act defines who is a landlord and what the Act does not apply to:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

What this Act does not apply to

4 This Act does not apply to

- (e) living accommodation occupied as vacation or travel accommodation,
- (j) tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies,

I find as the tenant owns the RV trailer, this is not a tenancy subject to the Residential Tenancy Act. I therefore have dismissed her application as I do not have jurisdiction under the Residential Tenancy Act. However, the parties may have created a tenancy pursuant to the Manufactured Home Park Tenancy Act.

The Manufactured Home Park Tenancy Act provides the following definitions:

"manufactured home" means a structure, whether or not ordinarily equipped with wheels, that is

- (a) designed, constructed or manufactured to be moved from one place to another by being towed or carried, and
- (b) used or intended to be used as living accommodation;

"manufactured home park" means the parcel or parcels, as applicable, on which one or more manufactured home sites that the same landlord rents or intends to rent and common areas are located;

"manufactured home site" means a site in a manufactured home park, which site is rented or intended to be rented to a tenant for the purpose of being occupied by a manufactured home;

Conclusion

I have dismissed the applicant's applications. The applicant may have a right to claim under the Manufactured Home Park Tenancy Act. If there is a disruption of service by Canada Post I have emailed the respondent a copy of this decision and direct him to deliver a copy to the applicant forthwith.

This decision 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*.

Dated: August 29, 2016

Residential Tenancy Branch