



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BRU PROPERTY MANAGEMENT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, AAT, FF

### Introduction

This hearing dealt with an Application to cancel a Notice To End Tenancy; to allow access to the unit or site; and to recover the cost of the filing fee.

The matter was scheduled as a teleconference hearing. The Applicants and the Respondent participated in the teleconference hearing.

### Preliminary and Procedural Matters – Jurisdiction

At the start of the hearing I identified myself to the parties. The parties provided affirmed testimony. Based on documentary evidence provided by the Respondent, the issue of jurisdiction was raised.

The Applicants submitted that they moved onto the property on March 15, 2016. The Applicants are residing in a 32 foot travel trailer in a recreational vehicle park and campground.

The Applicants submitted that they were given a notice to move out of the property.

The Applicants submitted that they did not sign a tenancy agreement or any other agreement that restricts their ability to leave without notice. They submitted that they paid no deposits and they do not pay any utility costs other than propane for their travel trailer. The Applicants submit that prior to renting a 400 litre propane tank, they asked the Landlord if they could stay at the property long term and the Respondent said yes.

The Respondent stated that the property is an RV Park and Campground that is not zoned or licenced as a manufactured home park. She submitted that this is not a tenancy situation, but rather a licence to occupy situation.

The Respondent made the following statements:

- There is no tenancy agreement between the parties.
- The applicant did not pay a security deposit.
- The owner controls the sites and can ask occupants to change sites.
- The respondent does not pay for utilities.
- The campground has visitor hours.
- The campground is not zoned to be a manufactured home park.
- There is no requirement for an occupant to give Notice when vacating the property.

Under the Manufactured Home Park Tenancy Act (“the Act”) a licensee is not entitled to file an application under the Act.

The Residential Tenancy Policy Guideline #9 (the Guideline) clarifies the factors that distinguish a tenancy agreement from a licence to occupy. The Guideline states:

*A licence to occupy is a living arrangement that is not a tenancy. Under a licence to occupy, a person, or "licensee", is given permission to use a site or property, but that permission may be revoked at any time. A licensee is not entitled to file an application under the Manufactured Home Park Tenancy Act.*

The Guideline states that some of factors that may that may weigh against finding a tenancy are:

- The owner, or other person allowing occupancy, retains access to, or control over, portions of the site.
- The owner, or other person allowing occupancy, retains the right to enter the site without notice.
- The parties have a family or other personal relationship, and occupancy is given because of generosity rather than business considerations.
- The parties have agreed that the occupier may be evicted without a reason, or may vacate without notice.
- The written contract suggests there was no intention that the provisions of the Manufactured Home Park Tenancy Act apply.
- Payment of a security deposit is not required.
- The occupier pays property taxes and utilities but not a fixed amount for rent.

The Guideline also states: “*although the Manufactured Home Park Tenancy Act defines manufactured homes in a way that might include recreational vehicles such as travel trailers, it is up to the party making an application under the Act to show that a tenancy agreement exists....It is also important to note that the passage of time alone will not change the nature of the agreement from license or tenancy.*”

The Notice of a Dispute Resolution Hearing provides general information about the responsibility of parties regarding the hearing. It states that evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. I find that the Applicants have the onus to provide evidence to support the Application, and I am assisted by the policy guidelines that states it is up to the party making an application under the Act to show that a tenancy agreement exists.

I find that the testimony of the Respondent supports that this living situation is a licence to occupy living arrangement. I find that the passage of time alone, in this case 9 months, does not change the nature of the arrangement from licence to tenancy.

The Applicant's provided insufficient evidence to establish that the living arrangement is a tenancy.

Based on the above facts, I find I do not have jurisdiction to hear this Application.

### Conclusion

I decline jurisdiction to hear this matter.

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: January 09, 2017

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Residential Tenancy Branch