



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This hearing was scheduled to deal with a Landlord's Application for Dispute Resolution for an Order of Possession and Monetary Order under the *Manufactured Home Park Tenancy Act* (the Act). Both parties appeared or were represented at the hearing.

At the outset of the hearing I identified a preliminary issue to resolve. Applications over which the Director of the Residential Tenancy Branch and I, as a delegated authority of the Director, have jurisdiction to resolve must be made under the: *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act*. I noted that on the Landlord's Application for Dispute Resolution the applicants had indicated "RV Site at Private Marina" next to the space provided for indicating the applicable Act under which the application is being made.

I confirmed that the respondent occupies a trailer or recreational vehicle that the respondent owns. Accordingly, the *Residential Tenancy Act* would not apply to the agreement between the parties.

The *Manufactured Home Park Tenancy Act* applies to tenancy agreements involving a manufactured home site in a manufactured home park. The definition of tenancy agreement under the *Manufactured Home Park Tenancy Act* does not include a license to occupy. The Residential Tenancy Branch Policy Guideline 9: *Tenancy Agreements and Licenses to Occupy* provides information and policy statements with respect to finding a tenancy agreement exists.

In this case, the applicants, representing the owner of the subject lands, stated that the arrangement between the parties is not a tenancy agreement under the *Manufactured Home Park Tenancy Act*. As provided in policy guideline 9, "it is up to the party making an application under the Act to show that a tenancy agreement exists". Since the

applicants were not prepared to demonstrate that a tenancy agreement that falls under the *Manufactured Home Park Tenancy Act* exists, I informed the parties that I would not proceed to further consider issuing the orders the applicants had requested because my jurisdiction is limited to the two Acts described above. The applicants confirmed that they understood.

Since the respondent has not filed an Application for Dispute Resolution I found it unnecessary to make a finding as to whether a tenancy agreement that falls under the *Manufactured Home Park Tenancy Act* exists and I informed the parties that I make no such determination or finding.

Both parties were encouraged to seek independent legal advice as to how to proceed to resolve their dispute.

Conclusion

The applicants were of the position the *Manufactured Home Park Tenancy Act* does not apply to the agreement between the parties. Accordingly, I declined to grant the applicants' request for an Order of Possession or Monetary Order.

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: August 15, 2017

Residential Tenancy Branch