



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, CNR, MT, OLC, ERP

### Introduction

This matter was originally before another Arbitrator on September 22, 2017, who adjourned the matter to allow the parties to exchange documentary evidence; however, that Arbitrator was unavailable to hear this matter on this date. On the September 22, 2017 hearing date it was deemed by the previous Arbitrator that the tenant's application is now limited to a request for orders that the landlords comply with the Act and that the landlord make emergency repairs as the other issues had been resolved.

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

- an order to compel the landlord to make emergency repairs for health and safety concerns pursuant to section 26; and
- an order to have the landlord comply with the Act, regulation or tenancy agreement pursuant to section 55.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The respondent's agent acknowledged receipt of evidence submitted by the applicant. The respondent's agent did not submit any documentation for this hearing. Both parties gave affirmed evidence.

### Preliminary Issue – Jurisdiction to hear Matter

Both parties agreed to the following facts. The applicant owns the manufactured home that was parked in the respondent's field. Both parties also agreed that the applicant was paying \$450.00 per month "until water, hydro, and outhouse complete". Both parties agreed that the applicant is the only person residing on this property. Both parties also agree that the respondent is not running a Manufactured Home Park.

The agent maintained that the respondent allowed the applicant to park his home on the property as they have had a longstanding relationship with the respondents' father and that the applicant would conduct some repairs and other duties on the property.

At the outset of the hearing it became clear to me that there was a question of jurisdiction. The applicant raised the argument that his claim might fall under the *Manufactured Home Park Tenancy Act* ("MHPTA") because the previous Arbitrator had conducted a hearing on that basis.

When I questioned the applicant as to the logistics of the property and details; he stated that the previous arbitrator that adjourned this matter had made a finding in a previous hearing (file #263273) that this matter fell under the *Manufactured Home Park Tenancy Act* and he is relying on that and has submitted a copy of it for this hearing. I have reviewed that file, and although the Arbitrator conducted a hearing on that basis, there is no mention of the actual logistics and description of the subject property. In addition that decision was silent or void of any finding that specifically found this relationship to be governed by the *Manufactured Home Park Tenancy Act* as alleged by the tenant.

In addition, section 57 of the *Manufactured Home Park Tenancy Act* reads as follows:

#### **Dispute resolution proceedings generally**

- 57** (2) The director must make each decision or order on the merits of the case as disclosed by the evidence admitted and **is not bound to follow other decisions under this Part**

The above noted section was referenced and explained to the parties in great detail.

Section 1 of the *MHPTA* defines the following terms:

*"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;*

*"service or facility" includes any of the following that are provided or agreed to be provided by a landlord to the tenant of a manufactured home site:*

- (a) water, sewerage, electricity, lighting, roadway and other facilities;*
- (b) utilities and related services;*
- (c) garbage facilities and related services;*
- (d) laundry facilities;*
- (e) parking and storage areas;*
- (f) recreation facilities;*

*"tenancy" means a tenant's right to possession of a manufactured home site under a tenancy agreement;*

*"tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a manufactured home site, use of common areas and services and facilities;*

In the applicants own testimony he stated that "there is no concrete pad for me to put my home; it's just a grass field". The applicant testified that he has had a long standing relationship with the respondent's father since he was a child and the living arrangement was beneficial to both parties. Furthermore, both parties agreed that much of the "agreement" was for the applicant to work on the property for the respondent and that the living arrangement was one of convenience.

Furthermore, as per the above definitions, the applicant's home is likely a "manufactured home." However, the respondent's "dirt field" does not offer any of the "services" or "facilities" as described in the definition above. It does not have water, sewerage, utilities, garbage facilities, and laundry or recreation facilities. Therefore, this matter does not fall under the definition of an MHPTA "tenancy agreement" because it does not involve possession of a manufactured home site together with the use of common areas and services and facilities.

Accordingly, I find that I do not have jurisdiction to hear the applicants' application as the MHPTA does not apply to this matter.

Conclusion

I decline to hear the applicants' application as I have do not have jurisdiction to hear the applicants' application and the *MHPTA* does not apply to 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 *Manufactured Home Park Tenancy Act*.

Dated: December 4, 2017

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Residential Tenancy Branch