



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding ALDERBROOK RV PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNR, OLC, FFT

Introduction

This hearing was convened in response to an application by the tenant disputing a rent increase under the *Manufactured Home Park Tenancy Act (the Act)* and to recover the filing fee for their application.

Both parties attended the hearing and were given opportunity to present evidence and make submissions. The tenant acknowledged receipt of evidence from the landlord. The tenant did not submit document evidence.

Preliminary matters

The landlord's legal counsel argued lack of jurisdiction under the Act on this matter as the living arrangement of this matter is not that of a tenancy, but rather a *license to occupy* in exchange for a fee allowing occupation of a travel trailer occupying space within a recreational vehicle park (RV Park).

The tenant testified they have occupied their "cement slab" within the RV park for 3 years and that there are others they know of which are in extended stay situations within the park. The tenant testified they reside in a self-owned 5th wheel travel trailer, typically towed by a motor vehicle. They have no written tenancy agreement and pay the rent owed for the site of their trailer on a monthly basis for a monthly fee plus GST. The parties agree the tenant does not pay separately for utilities, which are provided by the landlord as part of the tenant's fee. The tenant testified that the RV Park does not contain common areas although there is laundry room or laundromat and 1 shower accessible by the tenant which are also accessible by other users of the property.

The landlord argues the tenant's trailer is located in a campground or RV Park intended for itinerant use although there are some users on extended stays such as the applicant: the RV Park is not a manufactured home park. The property on which the RV Park is located does not meet zoning requirements for a manufactured home park. The user fee or rent is calculated on a daily usage basis and that extended stay users pay a special rate, to which GST is applied. One item submitted in evidence is a copy of the tenant's November to December 2017 invoice and receipt identifying the rate, plus GST on the rate. The landlord testified that other than the laundromat and shower facilities, as typical in an RV Park, no other amenities are provided. Visiting hours for the park are imposed. In addition, the landlord submitted the following,

- The owner retains access to and control over portions of the tenant's site

- The owner retains the right to enter the site without notice.
- The parties have agreed that the tenant may vacate without notice as is required by the Act.
- The landlord's website clearly promotes the RV Park as a service for daily recreational and not residential usage, with free wireless internet, water and sewage, cable television, electrical hookup, washrooms, and laundromat.
- Rates subject to change without notice according to season.

The tenant responded that some of the information presented by the landlord's counsel has not been apparent or promoted during their stay.

On preponderance of the evidence presented I am satisfied that the tenant's occupation of their site is within the parameters or confine of a *licence to occupy* rather than a tenancy agreement. And, that the Manufactured Home Park Tenancy Act does not operate to include a *licence to occupy* under the Act. I am satisfied that the tenant occupies a site in an RV Park and not a Manufactured Home Park and that their living arrangement is not subject to jurisdiction under the *Act* whatsoever.

As a result of all the above I find that the tenant's living arrangement does not fall under the jurisdiction of either the *Manufactured Home Park Tenancy Act* or the *Residential Tenancy Act*. As further result I must decline jurisdiction with the effect that the tenant's application **is dismissed**, without leave to reapply.

Conclusion

The application is **dismissed**.

This Decision is final and binding.

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: January 16, 2018

Residential Tenancy Branch