



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, FFT

### Introduction

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

- A monetary award pursuant to section 60; and
- Authorization to recover the filing fee for the application pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant DL (the "tenant") primarily spoke for both co-tenants. The landlord KM (the "landlord") spoke for both named landlords.

As both parties were in attendance I confirmed service of the tenants' application for dispute resolution and their evidence. The landlord confirmed receipt of the tenants' application and evidence. The landlord testified that they had not served any evidence of their own. In accordance with sections 81 and 82 of the *Act*, I find the landlords were duly served with the tenants' application and the evidence.

### Issue(s) to be Decided

Are the tenants entitled to a monetary award as claimed?

Are the tenants entitled to recover the filing fee for the application from the landlords?

### Background and Evidence

The parties agreed on the following evidence. The tenants resided on the subject property in a manufactured home which they owned. The subject property was

previously owned by the tenant's father and the landlords purchased the property on or about July, 2016. The tenants' manufactured home is the only manufactured home on the property.

The tenants were paying a monthly sum of \$300.00 to the tenant's father and the same agreement was transferred to the landlords. The parties documented the agreement in a written tenancy agreement dated October 5, 2016 on a Manufactured Home Site Tenancy Agreement Form.

The landlord subsequently issued a 12 Month Notice to End Tenancy for Conversation of Manufactured Home Park dated October 29, 2016. The tenants vacated the site and removed their manufactured home park by October 31, 2017 in accordance with the Notice.

The tenants seek a monetary award of \$3,600.00, the equivalent of 12 months rent, as they were issued a 12 Month Notice.

The landlords submit that this was not a tenancy as contemplated under the Manufactured Home Park Tenancy Act despite the documentation. The landlord said that they used the forms provided by the Residential Tenancy Branch as they were unaware of what other options they had. The landlord testified that they were unaware when issuing the 12 Month Notice the requirement for compensating the tenant with an amount equal to 12 month's rent.

The landlord testified that there was only one manufactured home on the property, that the local zoning does not deem the property to be a manufactured home park and that they simply continued the pre-existing arrangement with the tenant. The landlord said that they collected the monthly rent of \$300.00 from the tenants but never intended this to be a manufactured home park tenancy.

### Analysis

Section 1 of the *Act* defines a manufactured home park as follows:

**"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;

Residential Tenancy Policy Guideline 9 provides that if there is exclusive possession for a term and rent is paid there is a presumption that a tenancy has been created.

In the present case I find that the arrangement between the parties was a tenancy under the Act. The tenant was occupying a parcel on the site owned by the landlord. I find that the property meets the definition of a manufactured home park as set out in the Act as it is a parcel of land on which one manufactured home site the landlord rents out is located. I do not find the fact that there is only one site on the property to contradict the finding that this was a manufactured home park. The landlord testified that the site is not zoned as a manufactured home park. I find that there is insufficient evidence in support of the landlord's submissions as no documentary evidence was provided. Even if there is evidence that the location is not appropriately zoned, pursuant to Guideline 9 that would not be determinative in finding that the property is not a manufactured home park.

Furthermore, I note that the landlord documented the relationship with the tenant in a written tenancy agreement form pursuant to the Act. When it came time to issue a Notice to End Tenancy the landlord again used the form prescribed under the Act. The undisputed evidence is that the landlords collected the monthly rent throughout the duration of the tenancy. I find that the conduct of the parties is consistent with that of a landlord and tenant under the Act.

I do not find the landlord's submission that they simply used the forms as no other options were available to be convincing. If the landlords believed this to merely be a license to occupy they could have advised the tenants of their intention to end the relationship. The landlord issued a Notice to End Tenancy under the Act, I find that it would be contrary to the principles of natural justice to allow a party to end a tenancy in accordance with the Act yet fail to be bound by any of the Act's obligations.

Based on the evidence I find that this relationship was a tenancy as defined under the Act.

In accordance with section 44(1) of the Act, a landlord who issues Notice to End Tenancy pursuant to section 42 must pay to the tenant an amount equal to 12 month's rent.

I do not find the landlord's submission that they were unaware of the "fine print" on the 12 Month Notice to be convincing or a reason to find the landlords not liable for their obligations under the Act. Clearly printed provisions on the second page of two-page

document can hardly be considered to be hidden. Furthermore, it was the landlord who issued the 12 Month Notice and they had the opportunity to review a document they prepared.

The parties gave undisputed evidence that the monthly rent was \$300.00. I find that the tenants are entitled to a monetary award in the amount of \$3,600.00, the equivalent of 12 month's rent.

As the tenants were successful in their application the tenants may also recover the \$100.00 filing fee for their application.

### Conclusion

I issue a monetary order in the tenants' favour in the amount of \$3,700.00 against the landlords. The landlords must be served with this Order as soon as possible. Should the landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: July 11, 2018

---

Residential Tenancy Branch