



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC FF

### **Introduction:**

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:45 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. on December 6, 2018. The landlord attended the hearing and gave sworn testimony. She was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord confirmed she had received the Application for Dispute Resolution from the tenant and served her evidence on him and submitted online to the Residential Tenancy Branch. I find the documents were served pursuant to section 81 of the *Manufactured Home Park Tenancy Act* (the Act). The tenant requests a Notice to End Tenancy be cancelled and that the landlord be ordered to ensure his peaceful enjoyment and to obey the Act.

### **Issues**

Do I have jurisdiction in this matter?

### **Background and Evidence:**

The landlord described the situation. She owns an RV Park, not a manufactured home park. The landlord pays the utilities and property taxes and charges nightly rates of \$14.70. The occupants are free to move without notice. If guests want to stay longer term, they sign a "License to Occupy", not a lease and they receive a better monthly rate. The occupants have travel trailers licensed under ICBC and their utilities are obtained through hookups of a garden hose for water and a plug for electric. They are not zoned for residential use but for commercial use. They have requested several

occupants to move, including the applicant, as they have to extend the septic field for health reasons. The landlord submitted documents to prove her statements.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

Residential Policy Guideline 9 states:

*This Guideline clarifies the factors that distinguish a tenancy agreement from a license to occupy. The definition of "tenancy agreement" in the Residential Tenancy Act includes a license to occupy. However, the Manufactured Home Park Tenancy Act does not contain a similar provision and does not apply to an occupation of land that under the common law would be considered a license to occupy.*

*A license to occupy is a living arrangement that is not a tenancy. Under a license to occupy, a person, or "licensee", is given permission to use a site or property, but that permission may be revoked at any time. Under a tenancy agreement, the tenant is given exclusive possession of the site for a term, which can include month to month. The landlord may only enter the site with the consent of the tenant, or under the limited circumstances defined by the Manufactured Home Park Tenancy Act.. A licensee is not entitled to file an application under the Manufactured Home Park Tenancy Act... . In order to determine whether a particular arrangement is a license or tenancy, the arbitrator will consider what the parties intended, and all of the circumstances surrounding the occupation of the premises...*

*Tenancies involving travel trailers and recreational vehicles*

*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. In addition to any relevant considerations above, and although no one factor is determinative, the following factors would tend to support a finding that the arrangement is a license to occupy and not a tenancy agreement:*

- The manufactured home is intended for recreational rather than residential use.*
- The home is located in a campground or RV Park, not a Manufactured Home Park.*
- The property on which the manufactured home is located does not meet zoning requirements for a Manufactured Home Park.*
- The rent is calculated on a daily basis, and G.S.T. is calculated on the rent.*
- The property owner pays utilities such as cablevision and electricity.*

- *There is no access to services and facilities usually provided in ordinary tenancies, e.g. frost-free water connections.*

I have considered all of the evidence although not all is referenced in my Decision. After weighing the factors, I find the weight of the evidence is that this is a license to occupy, not a tenancy agreement. The home is located in an RV Park which does not meet zoning requirements for a Manufactured Home Park, the rent is calculated on a daily basis with a discount for longer stays. GST is calculated on the rent. The owner pays all the utilities and connections to water are through the occupant's own hose. As the Act does not apply to licenses to occupy (as noted in Guideline 9 above), I find I have no jurisdiction in this matter.

**Conclusion:**

I find I have no jurisdiction in this matter so the application is dismissed.

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 06, 2018

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Residential Tenancy Branch