



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TSAWWASSEN RV RESORT and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      DRI, MNDCT

### Introduction

This teleconference hearing was scheduled in response to an application filed under the *Manufactured Home Park Tenancy Act* (the “Act”) to dispute a rent increase and for monetary compensation.

The respondent was represented at the teleconference hearing by legal counsel and an agent (collectively the “Respondent”). The three applicants were present for the hearing although only applicant L.S. provided testimony (the “Applicant”).

The parties were affirmed to be truthful in their testimony and confirmed that the Notice of Dispute Resolution Proceeding package and a copy of each party’s evidence was served as required. Neither party brought up any issues regarding service.

As jurisdiction of this matter was brought into question through the Respondent’s evidence submissions, this was addressed at the outset of the hearing and will be outlined below.

### Preliminary Matters - Jurisdiction

The Respondent submitted testimony and evidence regarding their position that the *Manufactured Home Park Tenancy Act* does not apply to this matter.

The Respondent testified that the *Act* does not apply to this matter due to their agreement regarding the operation of an RV park on First Nations land. The Respondents also stated that they had further evidence to establish this but had not submitted the evidence prior to the hearing. However, based on the evidence before me

at the time of the hearing, I find that the *Act* does not apply due to this matter and therefore a further not meeting the definition of a tenancy under the *Manufactured Home Park Tenancy Act*. Therefore, this will be the focus of the analysis below.

The Respondent presented testimony that the Applicants' mobile home is kept on a site in a park designated for recreational vehicles (RV park) and that the land is zoned for recreational and commercial use only. The Respondent further stated that the land is not zoned for a manufactured home park.

The Respondent submitted the rules and regulations of the RV park which include that a maximum of four people may reside on the site and any additional occupants will be charged a daily rate. The rules also state that any breach will result in immediate termination of the rental by the park operator. The Respondent testified that renters can also leave with no notice.

While the rules state that the renters are responsible for all utilities, the Respondent provided testimony that the park operator pays for the water and electricity. The Respondent also stated that a monthly amount is charged to renters staying longer term for convenience, however the amount is calculated on a daily basis.

The Applicants stated that they have resided there for approximately four years and until recently that the park was under different management. The Applicants stated that they did not sign a tenancy agreement. They submitted a copy of a rental agreement which they were asked to sign when current management took over, but which they chose not to sign. The rental agreement states that the renters are responsible for utility costs, payable to the park operator.

The Respondent stated that the rental agreement submitted by the Applicants is not the current agreement and that the park operator pay the utilities. The Applicants stated that they pay \$700.00 per month and although they pay a fee towards the cable provided by the park operator, they use and pay for their own.

The Respondent submitted a business license dated May 4, 2018 which outlines that the license is for the operation of an RV park. Neither party submitted any evidence that would establish that the land is zoned for a manufactured home park.

I refer to Section 2(1) of the *Act* which states the following:

2 (1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, manufactured home sites and manufactured home parks.

I also refer to *Residential Tenancy Policy Guideline 9: Tenancy Agreements and Licenses to Occupy* which states the following:

*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.*
- *Visiting hours are imposed.*

This policy guideline further states that if the rental arrangement can be ended without reasons or without notice, that may lead to the finding that this is not a tenancy. As stated in the submissions of the Respondent, a renter may leave the RV park without providing any notice and the park operator may end the rental immediately if the park rules are not followed.

As noted above, the party making the application has the onus to establish that this is a matter which falls under the *Act*. Based on the license information for the property, the park rules, the ability for both parties to end the rental arrangement immediately, and the lack of a signed tenancy agreement between the parties, I do not find that the Applicants met the burden of proof to establish that this matter is a tenancy as defined

under the *Manufactured Home Park Tenancy Act*. Therefore, I decline jurisdiction over this matter.

### Conclusion

The *Manufactured Home Park Tenancy Act* does not apply to this matter and therefore I decline jurisdiction.

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: March 22, 2019

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Residential Tenancy Branch