



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR

### Introduction

This hearing was convened in response to an application for an order cancelling a notice to end tenancy for unpaid rent pursuant to section 46 of the *Residential Tenancy Act* (the “Act”).

The Applicant and Respondent were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Advocate made submissions on the Tenant’s behalf.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

### Background and Evidence

The Respondent states that a couple of years ago she gave the Applicant an old mobile home that the Respondent no longer wanted. The Respondent states that the Parties made an oral agreement that the Applicant would pay the outstanding back taxes owed to the city by the Respondent amounting to less than \$3,000.00 at the time and that the Applicant would pay the monthly pad rent to the mobile home park. The Respondent states that no rents are collected from the Applicant and that no security deposit was collected. The Respondent points to a document provided as evidence by the Applicant as evidence of the agreement. It is noted that this document is dated August 17, 2017. The Respondent states that she has a bad memory and has trouble recalling details.

The Respondent states that now there are more taxes owing. The Respondent states that the city has never sent any papers about taxes and only verbally informed the Respondent that over \$4,000.00 are now owed. The Respondent states that the taxes are in its name and that there was never any transfer of ownership of the mobile home due to the back taxes that were owed. The Respondent states that the Applicant filled out an "intent to rent" form for \$750.00 in rent that was to be provided to a government agency. The Respondent states that out of this amount \$400.00 was to be paid monthly to the city for the back taxes and the remaining was for the pad rent. The Respondent confirms that the Applicant was given a 10 day notice to end tenancy for unpaid rent in person on February 25, 2019 indicating that rent of \$4,000.00 was owed.

The Applicant states that pad rent of \$225.00 has been paid every month to the mobile home park plus an extra \$100.00 on occasion for the Respondent's pad rental arrears. The Advocate argues no rents are payable and that the agreement on the payment of taxes set out no deadline, amounts or schedule for the payments. The Advocate submits that the Applicant has already paid \$1,600.00 to the city for the back taxes by paying \$400.00 for each month of June, August and September 2018. The Advocate states that because the Applicant is illiterate the city verbally agreed that the Applicant could pay the taxes whenever possible. The Applicant states that no intent to rent form was given to any government agency and that he receives disability payments but no welfare payments.

### Analysis

Section 2(1) of the Act provides that the Act applies to tenancy agreements, rental units and other residential property. Section 1 of the Act provides the following definitions:

**"tenancy agreement"** means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

**"rental unit"** means living accommodation rented or intended to be rented to a tenant.

Given the undisputed evidence and written agreement that the Respondent gave the Tenant the mobile home on the basis that the Applicant would pay the Respondent's back taxes, it appears that the dispute is not over unpaid rent under a tenancy agreement but over the written agreement to pay back taxes. While the agreement on the provision of the mobile home and payment of taxes with the evidence of some taxes paid may or may not be a transfer of property, it is clear that no tenancy was created as no security deposit was collected and no rents are payable or were intended to be payable by the Applicant to the Respondent. I do not consider the oral evidence of an "intent to rent" document to be of any weight in determining whether a tenancy exists or was intended to exist given the written agreement on the mobile home and taxes. As a result I find that no tenancy of a rental unit exists and that the dispute is not under the jurisdiction of the Act and I dismiss the application.

#### Conclusion

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 Act.

Dated: April 15, 2019

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Residential Tenancy Branch