



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, FFL

### Introduction and Procedural Matters

This hearing was convened as a result of a landlord's application for dispute resolution under the Manufactured Home Park Tenancy Act (the "Act"). The applicant applied for an order of possession due to a 10 Day Notice to End Tenancy for Unpaid Rent and for recovery of the filing fee paid for this application.

The applicant and the respondent attended and were affirmed into the hearing.

I have reviewed all oral, photographic, and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Does the Act apply to this dispute and do I have jurisdiction to decide this dispute?

If so, is the applicant entitled to monetary compensation?

### Background and Evidence

After a review of the evidence submitted prior to the hearing, I determined it was necessary to decide whether the subject property was a manufactured home site within a manufactured home park to which the Act applies.

As a result, I asked questions of each participant, beginning with the applicant.

The applicant confirmed that the 5<sup>th</sup> wheel, recreational vehicle (the “rv”) occupied by the respondent was on his farm. The applicant said he was not sure the rv belonged to the respondent or someone else.

The applicant said the respondent moved into the rv on the farm years ago to have a place for her chickens and to help out around his farm.

In response to my inquiry, the applicant said that his farm is not zoned as a campground or a manufactured home park and the site upon which the rv sits is not equipped with water lines or sanitary waste disposal systems or other utilities.

The applicant said that the respondent draws her electrical power from an extension cord running from the barn, that her sanitary waste is put into a hole in the ground, and that she goes into town to buy her water.

The applicant said the respondent pays rent, but some of the rent is redeemed by providing services around the farm.

The respondent said that she owns the rv in question, and she has the papers to show ownership.

The respondent confirmed that there is not a sanitary waste disposal system, but that she uses an outhouse. The respondent also said that she draws water from a well on the farm to wash dishes, which is primarily used for the farm animals, and buys her drinking water in town.

The respondent said the electrical bill in the barn is in her name.

The respondent said since she has occupied the rv, it has been moved to another spot on the farm.

Neither party here was of the opinion that the subject property was a manufactured home park.

### Analysis

Where there is a question of jurisdiction, the applicant bears the burden to prove the Act applies. Residential Tenancy Branch Policy Guidelines 9 and 27 provide policy statements and information with respect to jurisdiction concerning recreational vehicles,

campgrounds and licenses to occupy. As provided in those policy guidelines, a recreational vehicle may meet the definition of a “manufactured home”; however, I must be satisfied that the property occupied by the respondent is a manufactured home site in a manufactured home park under a tenancy agreement as opposed to a license to occupy.

My authority to resolve disputes is provided by the Director of the Residential Tenancy Branch and is limited to disputes involving tenancies that fall under the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act*.

Considering the property was not equipped with services and utilities one would ordinarily expect in a manufactured home park (water lines, sanitary waste disposal, electrical connections and the like) and the property was not zoned for use as a manufactured home park, I am not satisfied that the subject property is a manufactured home site in a manufactured home park to which the Act applies. Therefore, I decline to accept jurisdiction to resolve this dispute.

The applicant remains at liberty to pursue a remedy against the respondent in the applicable legal forum.

### Conclusion

I find the Manufactured Home Park Tenancy Act does not apply to this dispute and I have declined jurisdiction.

I do not grant the filing fee as a result.

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 25, 2019

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Residential Tenancy Branch