



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 118834 BC LTD DBA SUNSHINE COAST  
R.V. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ERP FFT

### Introduction

This hearing dealt with the applicant's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- An order that the landlord perform emergency repairs pursuant to section 27; and
- Authorization to recover the filing fee from the landlord pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The applicant was represented by their advocates. The corporate respondent was primarily represented by its agent (the "respondent").

As both parties were present service of documents was confirmed. The parties each testified that they had received the other's materials. Based on the testimonies I find that each party was served with the respective materials in accordance with sections 81 and 82 of the Act.

### Issue(s) to be Decided

Do I have jurisdiction under the Act to make a decision on the application before me?

If so, is the applicant entitled to the remedies sought in the application?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the claims and my findings are set out below.

At the outset of the hearing the respondent raised the issue of jurisdiction and submitted that the respondents are operating a RV/Campground and not a Manufactured Home Park. The respondent submits that the property is a campground as per the Regional District land use regulations. The respondent testified that they purchased the property from the previous owner in December, 2018.

The applicant began occupancy in 1992 and has been paying the monthly rate of ~~\$400.00~~ **\$350.00** for occupancy. The applicant submits that their payment includes the use of electricity. The applicant says that no written tenancy agreement was ever signed.

The applicant submitted into documentary evidence a copy of a letter issued by the respondent introducing themselves as the new owner of the property. The letter states that "Your current Lease and payment terms will remain in effect." The letter also says that, "beginning on March 1<sup>st</sup> 2019 the monthly rent for the site you currently occupy...will be increased to \$400.00 per month. This rental payment is due on the 1<sup>st</sup> day of each month. If you wish to continue your tenancy the new monthly rental payment of \$400.00 is required. Please be advised that this price will not include Hydro anymore and as of March 1<sup>st</sup> all tenants will be metered individually for their usage."

The parties confirm that the landlord has cut off the electricity to the rental property.

### Analysis

Section 2 of the *Act* stipulates that subject to section 4 [what this *Act* does not apply to] the *Act* applies to tenancy agreements, manufactured home sites and manufactured home parks.

Residential Tenancy Policy Guideline 9 lists some of the factors to consider in determining if a situation is a tenancy or a license to occupy. These factors include the intended use of the manufactured home, the nature of the property where the home is located, the zoning restrictions set by the local government, and the services and restrictions imposed in the agreement. Although a manufactured home is defined under

the *Act* in way that may include recreational vehicles, the onus is on the party making an application under the *Act* to establish that a tenancy agreement exists.

I find that there is a valid tenancy agreement in place between the parties. The letter from the respondent makes multiple references to a Lease agreement, monthly rent and tenancy. While there may not be a written tenancy agreement between the applicant and the respondent or previous owner of the property, I find that there is sufficient evidence that there was an agreement between the parties.

The respondent's letter acknowledges that there is an agreement in place with the applicant. The respondent references the existing agreement and attempts to alter the terms of the agreement by increasing monthly rent and reducing services that were contained in the existing agreement. Based on the totality of the evidence I find that there is a tenancy agreement between the parties, the terms were in existence before the respondent purchased the property and they inherited the tenancy upon the purchase of the property from the previous owners. I therefore find that the relationship between the parties is a valid tenancy agreement and falls within the jurisdiction of the Branch.

I accept the undisputed evidence of the parties that the respondent cut off the electricity to the rental unit. A plain reading of the letter issued by the respondent is that the electricity was included in their earlier agreement and the respondent sought to alter the terms of the existing agreement.

In accordance with section 21 of the *Act* a landlord may not terminate or restrict a service or utility included in a tenancy agreement. I find that the respondent's letter increasing the monthly rent and terminating services is not in accordance with the *Act* and therefore of no force or effect. I order that the respondent restore the electricity to the rental unit and continue providing the service until it is terminated or restricted in accordance with the *Act*.

As the applicant was successful I allow them to recover their filing fee from the respondent. As this tenancy is continuing the applicant may satisfy their award by withholding \$100.00 from their next scheduled rent payment to the respondent.

### Conclusion

I find that this is a valid tenancy between the parties and falls within the jurisdiction of the Branch.

I order that the landlord restore the electricity to the rental unit immediately.

I allow the tenant to make a one-time deduction of \$100.00 from their next scheduled rent payment.

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: June 11, 2019

---

Residential Tenancy Branch