



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RPP FFT

### Introduction and Analysis

This hearing was convened as a result of the applicant's Application for Dispute Resolution (application) seeking remedy under the *Manufactured Home Park Tenancy Act* (the Act). The applicant has applied for the return of their personal property and the recovery of the cost of the filing fee.

The applicant CB (applicant) and the respondent KG (respondent) attended the teleconference hearing. The parties were affirmed. During the hearing, both parties confirmed that the applicant paid the respondent to keep their RV on the property of the respondent. Both parties also agreed that there was no written tenancy agreement and that in May 2018, when this arrangement began, there were no services to the RV such as sewer, electricity or water. The respondent testified that the property is 5.5 acres and that the RV was at the back of the property. The respondent lives in a home on the property and testified that there was no intention in forming a tenancy agreement with the applicant.

Residential Tenancy Branch (RTB) Policy Guideline 9 – Tenancy Agreement and Licences to Occupy (guideline 9) applies and states in part:

Factors that may suggest the Act (MHPTA) does not apply include:

- the park (or property) owner retains access to or control over portions of the site and retains the right to enter the site without notice;

In addition, other factors are listed which may distinguish a tenancy agreement from a license to occupy, including:

- payment of a security deposit;

During the hearing, the parties were asked if a security deposit was paid, and although the applicant claims they paid a security deposit, the amount the applicant stated they paid was inconsistent with half the monthly rent, which the applicant stated they had paid and later the applicant's testimony changed, which cast doubt on the applicant's testimony. Furthermore, I have considered that the landlord testified that no security deposit was ever paid by the applicant. Furthermore, the applicant provided no documentary evidence such as a receipt or email money transfer documents to support that a security deposit had ever been paid to the respondent by the applicant.

Given the above, and the fact that there was no dispute that water, sewer and electricity were not included in the money paid to have the RV on the respondent's property in May 2018, I find that this matter is a licence to occupy and does not form a tenancy agreement and as such, I decline jurisdiction to hear this dispute.

In addition, although I mentioned that I would be making orders in terms of an adjournment and the proof of documents served by the applicant, I no longer make any formal orders as I decline jurisdiction as the Act does not apply to a licence to occupy under section 2 of the Act.

Finally, while the parties provided contradictory testimony in terms of water, sewer and electricity and the related time period after May 2018, which was the start of the licence to occupy, I am not convinced that the licence to occupy became a tenancy agreement due to contradictory evidence. I also find the applicant was not credible given that their inconsistent testimony regarding dates, whether the makeshift sewer hole was permitted by the respondent, when the shed was built and the purposes of the shed, and whether permission was granted for the hole or the shed. Given the above, I afford more weight to the respondent's testimony that the Act does not apply to this matter.

### Conclusion

I decline jurisdiction as I find this matter relates to a licence to occupy and not a tenancy agreement under section 2 of the Act.

The filing fee is not granted to the applicant as the Act does not apply to a licence to occupy.

This decision will be emailed to both parties at the email addresses confirmed by the parties at the outset of the hearing.

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 26, 2020

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Residential Tenancy Branch