



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ERP

### Introduction

On July 2, 2020, the Applicant applied for a Dispute Resolution proceeding seeking an emergency repair Order pursuant to Section 62 of the *Residential Tenancy Act* (the “Act”).

The Applicant attended the hearing with B.P., who claimed to be a second tenant. The Respondent attended the hearing with K.K. attending as his agent. All in attendance provided a solemn affirmation.

The Applicant advised that she served the Respondent with the Notice of Hearing and evidence package by posting it to the Respondent’s door on June 6, 2020, and the Respondent confirmed that he received this package. As well, he did not raise any issues with service. Despite the fact that this package was served contrary to Section 89 of the *Act*, as the Respondent took no issue with service, I am satisfied that the Respondent was served the Applicant’s Notice of Hearing and evidence package.

The Respondent advised that he did not submit any evidence for consideration on this file.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Applicant entitled to an emergency repair Order?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Applicant initially testified that she rented a manufactured home on blocks, beginning on or around June 2011, and that this was situated in a large field owned by the Respondent. She stated that the Respondent did not want rent, but the Applicant insisted, and rent was paid by the ministry, through B.P., directly to the Respondent as an electronic auto deposit. Rent was paid in the amount of \$375.00 per month but there was no written tenancy agreement, so she did not know when rent was actually due each month. A security deposit was never paid.

K.K. advised that the Applicant had been living in her own motor home in the field in 2011 and that the Respondent moved a manufactured home onto this field in 2019, to be used as a parts shed. He stated that the Applicant simply moved from her motor home into the manufactured home sometime in the winter of 2019 without the Respondent's consent. The rent of \$375.00 per month had always been for rental of the horse field and a tenancy had never been entered into at any point. A security deposit was never paid.

The Applicant then changed her story and acknowledged that as of 2011, she had been living on the field in her own motor home but then moved into the manufactured home. However, she stated that she had consent from the Respondent to do so. She moved some belongings into this manufactured home on or around November 2019 and moved into the manufactured home to live in March 2020. She stated that rent was still paid to the Respondent.

K.K. referred to a letter dated March 8, 2020 that the Applicant submitted as documentary evidence. This letter was from the Respondent to the Applicant, reminding her that the original agreement was that the Applicant would temporarily live in the field in her own motor home.

The Respondent advised that he never permitted the Applicant to move into the manufactured home and that the Regional District would not permit anyone to live in it as his property was not designated as a campground. He stated that the Applicant moved into this manufactured home at some point, likely around late 2019, without his authorization. He acknowledged that he had been receiving rent from the ministry on behalf of B.P. but this was for rental of the horse field, not for any rental unit. He stated that this manufactured home was brought onto the property to be used as a parts shed and was never intended for residential use.

The Applicant stated that there was a fridge and stove in the manufactured home and the Respondent showed her around this unit.

The Respondent acknowledged showing her this unit, but he did so because he thought that the Applicant could store some of her property in there, if necessary.

### Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

When reviewing the evidence and testimony before me, I am satisfied that the Applicant was originally living on the Respondent's property in her own motor home. All parties agreed that there was no designated site to establish this as a tenancy under the *Manufactured Home Park Tenancy Act*. While there was some dispute over whether a tenancy was started when the Applicant moved into the manufactured home, as the Applicant was originally untruthful about the nature of the situation and initially declined to divulge that she lived in her own motor home on the property, I find that this causes me to doubt her credibility.

I find it more likely than not that the Applicant was originally permitted to have her motor home on the property in 2011, that this was a licence to occupy situation, and that the field was what was rented to the Applicant. As well, I am satisfied that the Respondent later placed a manufactured home on his property and that it was there to be used for his own benefit. Furthermore, I find that the Applicant more likely than not, moved into the manufactured home without the Respondent's consent.

As I am satisfied that the original agreement was a licence to occupy, and as I am satisfied that the Applicant had no authorization to take occupancy of the manufactured home, I find that there is no Landlord/Tenant relationship between the parties as a tenancy has not been established. Ultimately, even if the parties intended upon entering into a tenancy agreement as contemplated under Section 1 of the *Act*, the *Act* would not apply to this situation. As a result, I have no jurisdiction to consider this Application and render a Decision on this matter.

### Conclusion

I decline to hear this matter as I have no jurisdiction to consider this Application. This Application is dismissed in its entirety, without leave to reapply.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 30, 2020

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Residential Tenancy Branch