



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Coombs Country Campground and  
[tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **DRI, OLC, CNC, FFT**

### **Introduction**

This hearing dealt with an application pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for:

- a dispute of a rent increase pursuant to section 35;
- an order requiring the respondent to comply with the Act, regulation or tenancy agreement pursuant to section 55;
- cancellation of a 1 Month Notice to End Tenancy pursuant to section 40; and
- authorization to recover the filing fee from the respondent pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate respondent was represented by its agent (the “respondent”).

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with the *Act*.

### **Issue(s) to be Decided**

Does this matter fall under the jurisdiction of the Branch?

If so is the applicant entitled to any of 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.

The respondent submits that this tenancy does not fall under the jurisdiction of the Act or the Branch. The respondent submits that the park is an RV/Campground and not a Manufactured Home Park and that the agreement with the applicant is for a temporary, short-term stay.

The parties agree that when the applicant began residing on the property in April, 2020 they paid a site deposit of \$150.00 and paid different amounts for their monthly stay over the next 6 months. The parties agree that for the month of April \$575.00 was paid, \$600.00 for May, \$700.00 for June, \$750.00 for July and August and \$700.00 for September. The parties agree that since October 2020 the applicant has paid a monthly amount of \$575.00 plus applicable GST.

The applicant says that their stay at the dispute address was intended to be temporary until another site owned by the respondent was available. The parties agree that the respondent has not issued any Notice to End Tenancy beyond email correspondence. Copies of correspondence between the parties were submitted into evidence and show that the applicant was offered a choice of rates for the period of October 2020 to September 2021.

## 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.

Based on the totality of the evidence I am unable to find that there is an enforceable tenancy agreement between the parties as contemplated in the Act. I find that the applicant pays a monthly fee to occupy their site. The monthly rate fluctuates seasonally and month-to-month. The deposit paid by the applicant at the start of their occupation is a set amount not related to the amount paid for occupation of the site. Throughout the occupation the respondent has been consistent in their correspondence that this is not a tenancy and has not used any forms provided by the Branch or referenced the *Act* as governing their actions.

I find that the relationship between the parties and the present occupation on the dispute address has little characteristics of a tenancy agreement as contemplated under the Act.

I find that I do not have jurisdiction to make a decision on the application before me.

### Conclusion

I find that I do not have jurisdiction in this matter and I dismiss the application for dispute resolution.

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: March 4, 2021

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Residential Tenancy Branch