



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remax Penticton Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC DRI OLC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on November 30, 2021. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

Both parties attended the hearing. Both parties confirmed receipt of each other's evidence and confirmed they understood Rule 6.11.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision. Not all evidence that was submitted will be summarized. Only evidence which underpins my decision will be referenced.

Preliminary and Procedural Matters

The issue of jurisdiction was raised by the Landlord at the start of the hearing, and as such, I directed the parties to present their statements and evidence with respect to whether or not I have jurisdiction to hear their dispute under the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act*. Each party was given a chance to speak on this matter.

Both parties confirmed that all owners of this rental property are members of the Penticton Indian Band. The parties both confirmed that the entirety of this rental complex is located on "Reserve Lands", as defined by the Federal Legislation

(Constitution Act). The parties all confirmed that the owners of this property hold certificates of possession for the lands, and have the right to manage the land.

After carefully considering all of the evidence and testimony, I accept that the Manufactured Home Park Tenancy Act and that the Residential tenancy Branch does not have jurisdiction for the following reasons:

- The landlord(s) are members of the Penticton 1 Indian band and are Indians as within the meaning of the *Indian Act*. I also note they hold a certificate of possession for the lands, and they are together known as the “locatees”. As locatees, they have the right to possess, manage and use the land.
- Policy Guideline 27 applies to the facts of this case.

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: November 30, 2021

Residential Tenancy Branch