



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **CNC, FFT**

### Introduction

The hearing was convened as a result of the Applicant's application under the *Residential Tenancy Act* (the "RTA") for:

- cancellation of a Month Notice for Cause dated November 8, 2021 ("1 Month Notice") pursuant to sections 47;
- authorization to recover the filing fee for its application from the
- Respondents pursuant to section 72.

The Applicant and the two Respondents ("BP" and "TP") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The Applicant testified she served the Notice of Dispute Resolution Proceeding and her evidence ("NDRP Package") on the two Respondents separately by personal service but she was unable to recall the exact date of service. TP acknowledged the Respondents were served with the NDRP Packages. I find the Respondents were served with the NDRP Packages in accordance with section 89 of the RTA.

TP stated the Respondents did not serve the Applicant with any evidence for this proceeding.

Preliminary Matter – Respondents named in Application Are not “Landlords” under RTA

Rule 7.7 of the *Residential Tenancy Branch Rules of Procedure* states:

**7.7 Preliminary matters**

At the start of the hearing, the arbitrator will consider any preliminary matters. Preliminary matters include, but are not limited to, questions of jurisdiction, substituted service, adjournment, adding a related matter, amending the application and summoning a witness to provide evidence.

TP testified that there was no tenancy agreement between the Respondents and the Applicant. TP stated the Respondents are the owners of a manufactured home park (the “Park”). TP stated the manufactured home (“Home”) the Applicant was living was situated on a home site (“Home Site”) located in the Park. TP stated that the Applicant had caused problems and the Respondents wanted the tenancy to end. TP stated that they didn’t know the name of the owner of the Home so the Respondents served the 1 Month Notice on the Applicant. TP acknowledged the Applicant had vacated the Home but stated the Applicant did not remove a “travel trailer” from the Home Site until about January 15 or 16, 2022.

The Applicant testified she was renting and resided in the Home but she was not the owner of the Home. The Applicant stated the owner of the Home is a different person than the Respondents named in the 1 Month Notice. The Applicant stated she vacated the Home on December 22, 2021 as she was concerned about being forced to vacate unexpectedly. However, the Applicant admitted that she did not remove her travel trailer from the Home Site until about January 15, 2022.

The Applicant submitted a copy of the 1<sup>st</sup> page of the 1 Month Notice into evidence. In the box where the name of the tenant is to be inserted by the landlord, it only states the first name but not the surname of the tenant. The date of the 1 Month Notice is November 8, 2021 but the effective date of the 1 Month Notice was November 30, 2021, being less than one clear month from the date of the 1 Month Notice.

Section 1 of the RTA defines “landlord” and “rental unit” as follows:

“landlord”, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or

- (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
  - (i) is entitled to possession of the rental unit, and
  - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

"rental unit" means living accommodation rented or intended to be rented to a tenant;

TP testified the Respondents are the owners of the Home Park but are not the owners, or agents of the owner, of the Home the Applicant was renting. Accordingly, the 1 Month Notice, signed by BP, was served by a person who is a "landlord" as defined in section 1 of the Act. Furthermore, as the Respondents are not the owners of the Home, or agents of the owner of the Home, the Home is not living accommodation rented or intended to be rented to the Applicant by the Respondents.

The Respondents had the option of seeking to end the tenancy by serving a notice to end tenancy on the owner of the Home pursuant to the provisions of the *Manufactured Home Site Tenancy Act* ("MHSTA") if there have been breaches of the MHSTA and/or the tenancy agreement by the owner of the Home. However, the Respondents did not have status under the RTA to serve the Applicant with the 1 Month Notice under the provisions of the RTA. As such, the 1 Month Notice has no force and effect against the Applicant and I order the 1 Month Notice to be cancelled.

The Applicant was successful in her application for cancellation of the 1 Month Notice. However, as the Respondents are not "landlords" for the purposes of the RTA, I do not have authority under the RTA to issue an order requiring the Respondents reimburse the Applicant for the filing fee of her application. Based on the above, I must dismiss, without leave to reapply, her claim for reimbursement of the filing fee she paid for her application.

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: January 27, 2022

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Residential Tenancy Branch