



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      LRE, RPP, AS, OLC

### Introduction

The Applicant seeks the following relief under the *Manufactured Home Park Tenancy Act* (the “Act”):

- an order pursuant to s. 63 restricting the landlord’s right of entry;
- an order pursuant to s. 58 for the return of personal property;
- an order pursuant to s. 58 that the tenant be permitted to assign or sublet the rental unit; and
- an order pursuant to s. 55 that the landlord comply with the *Act*, Regulations, and/or the tenancy agreement.

L.F. appeared as the Applicant. D.D. appeared as counsel for the Respondent M.M.H.P. and was joined by its agent J.C.. D.M. appeared as counsel for the Respondent K.R.E.H. and was joined by its agent B.K..

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

At the outset of the hearing, I enquired whether the Applicant had served her application and evidence on the Respondents. I was told by the Applicant that she had. D.D. confirmed that M.M.H.P. had received the application and detailed the evidence received. D.M. confirmed that K.R.E.H. received the application as well and detailed the evidence received. The evidence received by both parties did not correspond with one another. Based on the descriptions provided by counsel, it does not appear that the documents correspond with what the Tenant has provided to the Residential Tenancy Branch.

Dealing strictly with the application, I find that pursuant to s. 64(2) of the *Act* that the Respondents were sufficient served with it based on their acknowledged receipt. I make no findings with respect to the service of the evidence as it was unclear to me what evidence provided to the Residential Tenancy Branch had been served on the Respondents.

The Respondent K.R.E.H. provided evidence in response to the application and counsel advises that it was served via process server to the Applicant's residence. The Applicant acknowledged its receipt. Based on its acknowledged receipt, I find that pursuant to s. 64(2) of the *Act* the Respondent's evidence was sufficiently served on the Applicant.

#### Preliminary Issue – Jurisdiction

The issue of jurisdiction was raised by the Respondent K.R.E.H. in its written submissions. I was further raised to the issue based on the Applicant's application, which states the following with respect to her claims:

Landlord of Manufactured Home Park, fraudulently filed with the MH Registry that my module. home is abandoned it is not. I have paid my pad rent and have been here since 2006. My husband passed away in 2021, two months later the owner of the home park filed affidavit of abandonment & sale. Did not comply with part 6 of regulations. Also, she has subsequently sold the park and my trailer to the secondary landlord listed on this application. This is urgent.

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I want the landlord to return. my personal property the Modular Home # 6 & # 4 including personal effects. I am the common law wife of my late husband the modular homes were in my mother in laws name who passed in 2018, leaving it all to my late husband who also died. The landlord fraud and transferred registration. Police are involved.

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I want to be able to rent out # 6 as it is owned by me and fraudulently transferred and subsequently sold.

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Part 6 of the Manufactured Home Act. She filed a fraudulent Affidavit claiming my modular home was abandoned it is not I have lived here since 2006. This is urgent as she sold it to a new owner and they are intending to resell my unit.

In the interest of efficiency in the process, the hearing dealt strictly with the question of jurisdiction rather than an individual review of each claim.

In the Applicant's submission, she began to reside at the manufactured home park on her current site since 2006. I am told that she resided with her common-law spouse. The Applicant testified that her mother-in-law passed away in 2018 and that after which her spouse came into ownership of two manufactured homes, the one she and her spouse were residing in and a manufacture home at an adjacent site. The Applicant says she and her spouse have paid rent on the sites beginning in 2018, though she stopped paying rent on adjacent site in October 2021.

The Applicant further testified that her spouse passed away in September 2021 and that the ownership of both manufactured homes came into her ownership. The Applicant also testified that both her spouse and her mother-in-law died intestate. It was not clear whether the mother-in-law's estate had ever been administered, though the Applicant advises that her spouses estate was not administered. After the passing of her spouse, the Applicant says that in December 2021 she discovered that the manufactured homes were deemed to be abandoned and that ownership passed to the park's former owner, M.M.H.P.. The manufactured home park was subsequently sold to K.R.E.H., with its written submissions indicating that the sale completed on August 19, 2022.

Counsel for both respondents indicate that questions of ownership are outside the scope of the *Act* and that I do not have jurisdiction to determine the dispute. D.D. submits that he has previously been involved in rent-to-own disputes and that the Residential Tenancy Branch has consistently declined jurisdictions on these disputes. D.D. further submitted that it was clear based on the Applicant's submissions that the dispute solely pertained to questions of ownership of the two manufactured homes.

Based on the submissions provided that the issue relates to claims of ownership of the two manufactured homes, which is also apparent on the fact of the application. The *Act* exists to regulate tenancies between landlords and tenants in tenancies for manufactured home sites. It does not govern questions of ownership of the manufactured home. Insofar as the application pertains to issues related to the ownership of the two manufactured homes, I find that I do not have jurisdiction to adjudicate disputes of ownership of manufactured homes.

I do, however, note that Part 6 of the Regulations pertain to the disposal of abandoned property, include the disposal of an abandoned manufacture home as per s. 39 of the

Regulations. In theory, claims for compensation under s. 60 of the *Act* could flow from a landlord's breach of the process for disposing of abandoned property under Part 6 of the Regulations.

Strictly speaking, however, the Applicant did not advance a claim in compensation, rather seeking a determination pertaining to ownership, which as mentioned above is beyond the jurisdiction of the *Act*. There is a further issue in that the Applicant's spouse and her mother-in-law died intestate. At least one, and perhaps both, of the estates have not administered. If a claim for compensation would be made it would be made by the owner's estate, whether that is the mother-in-law or the spouse, I do not know. Such a claim cannot be advanced, as has been done here, by a purported beneficiary of an intestate deceased. I find that insofar as I may have jurisdiction to deal with a claim in compensation with this application, I cannot proceed as the Applicant is advancing a claim for which she has no right.

The application is dismissed as I do not have jurisdiction to adjudicate disputes pertaining to ownership. To the extent that there may be jurisdiction under s. 60 of the *Act*, the Applicant is advancing a claim for which she has no right.

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: January 13, 2023

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Residential Tenancy Branch