# Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

A matter regarding 09487 B.C. LTD. DBA SHADY LANE RV PARK
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes ERP, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant on April 28, 2023, under the *Manufactured Home Park Tenancy Act* (the Act), seeking:

- Emergency repairs; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call at 9:30 am on May 19, 2023, and was attended by the Tenant, the Tenant's support person MK, an agent for the Landlord TL, who was the respondent named in the Application, and a witness for the Landlord TG. All testimony provided was affirmed. As the respondent acknowledged service of the Notice of Dispute Resolution Proceeding (NODRP), the hearing proceeded as scheduled. The parties were provided the opportunity to present their evidence orally and in written and documentary form, to call witnesses, and to make submissions at the hearing.

The parties were advised that interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over me and one another and to hold their questions and responses until it was their opportunity to speak. The parties were also advised that recordings of the proceedings are prohibited, and confirmed that they were not recording the proceedings.

Although I have reviewed all evidence and testimony before me that was accepted for consideration, I refer only to the relevant and determinative facts, evidence, and issues in this decision.

Preliminary Matters

Matter #1 – Jurisdiction

The parties disagreed about whether the Act applies. The Tenant stated that they are the third owner of the manufactured home, which was placed on the site in 1997 by the first owner. The Tenant stated that they purchased the manufactured home, which is a park model with skirting and insulation, on September 1, 2019, and that they had a tenancy agreement for the manufactured home site with the previous owner of the park. The Tenant stated that the site has water, sewer, and electricity, that his pad rent is $1,200.00 per month, and that they live in their manufactured home full-time.

The Agent stated that the current owners took over the property, which they describe as a campground, on October 15, 2018, and that the Tenant was already there. As a result, they do not know when the Tenant moved in. The Agent agreed that pad rent is charged to the Tenant monthly at a rate of $1,200.00 per month, plus GST, and that the site has water, electricity, and sewer hookups. The Agent argued that the Act does not apply as not only is there no Manufactured Home Park Tenancy Agreement in place between the current owner and the Tenant, but that the site in which the Tenant's manufactured home is located, is not in a manufactured home park. In support of this argument the Agent stated that the website indicates that they permit long-term camping. The Agent also stated that the Tenant returns to another province 4-5 times a year, which the Tenant denied. The Agent also stated that the Tenant did not pay a security deposit.

I disagree with the Agent's position that a tenancy under the Act does not exist. First, the Act prohibits landlords from collecting a security deposit. As a result, I find the fact that the Landlord did not charge the Tenant a security deposit in line with the requirements of the Act. Second, I am satisfied that the manufactured home, which has been on the site since 1997 according to the Tenant, is the Tenant's permanent home. Although the Agent stated that the Tenant's vehicle is insured in another province and that the Tenant returns to that province 4-5 times a year, the Tenant denied this, and no corroboratory evidence was submitted by the Agent. As a result, I am satisfied that the Tenant resides in the manufactured home on the site permanently and that they have done so since they purchased the manufactured home in September of 2019. I am also satisfied that the site has features of permanence as set out in Residential Tenancy Policy Guideline (Policy Guideline) #9, such as year-round water connections, electricity, and sewer hookups. Although the Agent argued that GST is charged on top

of rent, proof of this was not submitted. Finally, even if I were to find that that the site was located in a campground, the BC Supreme Court found in Steeves v. Oak Bay Marina Ltd., 2008 BCSC 1371, that while the Act is not intended to apply to seasonal campgrounds occupied by wheeled vehicles used as temporary accommodation, there are situations where an RV may be a permanent home that is occupied for "long, continuous periods." Policy Guideline #9 goes on to state that the actual use and nature of the agreement between the owner and occupier is what determines whether there is a tenancy agreement under the Act in place.

Although the Agent stated that the current owners were not provided with a tenancy agreement for the Tenant from the previous owner, the lack of provision of the tenancy agreement by the previous owner to the current owner does not negate its existence. I therefore accept the Tenant's affirmed testimony that they had a written tenancy agreement under the Act with the previous owners. As a result of the above, I am satisfied that the site rented to the Tenant is a manufactured home site as defined by the Act, and that a manufactured home park tenancy agreement under the Act exists between the parties.

Matter #2 – Naming of Parties

The parties agreed that the Landlord 09487 B.C. LTD., which is a numbered corporation doing business as SHADY LANE RV PARK, should have been named as the Landlord in the Application rather than TL. As there were no objections by the parties, the Application was amended to properly name the numbered corporation and its doing-business-as name, as the Landlord.

Although TL argued that they are not properly an agent for the Landlord and therefore the hearing should not proceed, I disagreed. TL acknowledged that they work for the Landlord, permit occupation of sites on the property, and take rent payments. As set out above, I have also found that a tenancy to which the Act applies exists between the Tenant and the Landlord. As a result, I am satisfied TL is an Agent for the Landlord as defined under section 1 of the Act. The hearing therefore proceeded as scheduled.

Matter #3 – Evidence

The documentary evidence from both parties was excluded from consideration because the Tenant failed to satisfy me that their documentary evidence was served as required and the Landlord's evidence was served by the Agent on the Tenant only 4 days prior to

the hearing date, contrary to the requirements set out in the Residential Tenancy Branch Rules of Procedure (Rules of Procedure). The hearing therefore proceeded based only on the affirmed testimony of the parties and their witnesses at the hearing.

Issue(s) to be Decided

Is the Tenant entitled to an order for the Landlord to complete emergency repairs?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The parties agreed that there has been no electricity at the site since March 14, 2023, but disagreed about why. The Tenant argued that the Landlord intentionally disconnected their electricity after they had a hearing with the Branch on March 14, 2023. The Tenant's support person MK, who works with them as a support worker, confirmed that the Tenant has not had electricity since March 14, 2023, and stated that the Tenant has a brain injury, can find communication difficult, and is a vulnerable person.

The Agent denied intentionally disconnecting the Tenant's electricity, and alleged that the Tenant disconnected it themselves when they attacked a main breaker box. The Agent called a witness, TG, who stated that they witnessed the Tenant attack a main breaker box between sites 104 and 103, sometime in March of 2023. TG stated that the main breaker box at this location services all of the sites in their row, and that the Tenant attacked it with his bare hands, breaking the lock.

The Tenant denied attacking the breaker box and MK argued that it is illogical to believe that the Tenant could break the lock to the breaker box with their bare hands as alleged. MK also argued that it is not reasonable to believe that the Tenant disconnected their own electricity, as the Tenant has been forced to buy a generator in the meantime, and stated that the individual power meter at the site is locked, not on, and appears not to have been tampered with.

The Tenant sought an order that the Landlord immediately reconnect their power or resolve the issue causing the disconnection.

Analysis

I am satisfied based on the testimony of the parties and their witnesses, that the Tenant currently does not have access to a properly functioning electricity hookup at their manufactured home site. I am also satisfied that the provision of electricity is the Landlord's responsibility and essential to the Tenant's use of the manufactured home site as a site for their manufactured home.

Although the Agent argued that the Tenant damaged a main breaker box, causing this outage, I am not satisfied this is the case. Neither the Agent nor the witness TG could tell me the date upon which the Tenant allegedly attacked the breaker box. As a result, I am not satisfied that this alleged attack on the breaker box, if it in fact occurred, was on or prior to March 14, 2023, the date the Tenant ceased having electricity. I also find it odd and contrary to common sense, that an attack such as the one described by TG, would affect only one of the many sites connected to that breaker box, and that the one site affected would coincidentally be the Tenant's. Finally, I agree with MK that it is illogical to conclude that the Tenant would intentionally disconnect their own electricity. As a result, I do not accept the Agent's argument that the Landlord is not responsible to have the electrical issue at the Tenant's site investigated and repaired.

Based on the above, and as I find an improperly functioning electrical hookup meets the criteria set out under section 27(1) of the Act, I therefore grant the Tenant's Application and order the Landlord to have the electrical connection at the Tenant's manufactured home site inspected and repaired as follows:

- **I order** the Landlord to have the electricity meter and electricity hookup at the site, and as necessary, any other components of the electrical system that supplies electricity to the site, inspected by a qualified electrician in good standing in the community to determine the issue **as soon as possible and not later than 72 hours after receipt of this decision** by TL or any other agent for the Landlord.
- **I order** the Landlord to have any necessary repairs completed to the electrical meter, hookup, breaker box, or the electrical system as a whole, **as soon as possible and not later than one week after the inspection.**

If the inspection reveals that the electrical system was damaged, and the Landlord believes that the damage was caused by the Tenant, they may file and Application for Dispute Resolution with the Branch seeking recovery of any repair costs from the

Tenant. **The Landlord must not delay or withhold repairs** regardless of the cause of the lack of electricity at the Tenant's site.

As the Tenant was successful in their Application, I grant them recovery of the $100.00 filing fee pursuant to section 65(1) of the Act.

Conclusion

I grant the Tenant's Application seeking an order for the Landlord to complete emergency repairs and I order the Landlord to comply with the repair orders set out above. The Landlord and their agents are cautioned that failure to comply with these orders could result in administrative penalties of up to $5,000.00 per day that they remain in contravention of these or any other orders from the Branch.

Pursuant to section 60 of the Act, I grant the Tenant a monetary order in the amount of **$100.00** for recovery of the filing fee. The Tenant is provided with this order in the above terms and the Landlord must be served with this order as soon as possible. Should the Landlord fail to comply with this order, it may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Instead of serving and enforcing the monetary order, the Tenant may deduct $100.00 from the next months rent payable under the tenancy agreement, should they wish to do so, pursuant to section 65(2) of the Act.

This decision is made on authority delegated to me by the Director of the Branch under section 9.1(1) of the Act.

Dated: June 7, 2023

Residential Tenancy Branch