



DECISION

Introduction

This hearing dealt with joined applications for two Tenants in a manufactured home park including:

Tenant A's January 24, 2025, Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* (the Act) for:

- I want compensation for my monetary loss or other money owed
- I want to dispute a rent increase that is above the amount allowed by law
- I want the landlord to comply with the Act, regulation and/or the tenancy agreement
- I want to include a request for the landlord to pay me back for the cost of the filing fee

Tenant B's January 24, 2025, Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* (the Act) for:

- I want compensation for my monetary loss or other money owed
- I want to dispute a rent increase that is above the amount allowed by law
- I want the landlord to comply with the Act, regulation and/or the tenancy agreement
- I want to include a request for the landlord to pay me back for the cost of the filing fee

The February 24, 2025, participatory Teleconference hearing was attended by Tenant A, Tenant B, and their Advocate L.S.S.

The Landlord, owner operator of the RV Park named as Landlord, did not attend.

The Tenants and their Advocate had the opportunity to provide sworn testimony, refer to evidence, and ask questions.

Service of Notice and Evidence

The Tenant's Advocate referred to proof of tracking of mailing sent January 28 and January 31 to the Landlord and testified that copies of all required Notice and Evidence documentation were included in these packages.

I reviewed these items and confirmed they were sent on these days but that neither package was collected by the Landlord.

I nevertheless deem the Landlord served with these packages 5 days after they were mailed on February 2, 2025, and February 5, 2025, in accordance with 83(a) of the Act and find that I can consider the Tenants' evidence in my decision making because they served the Landlord as required by the Act and RTB Rules of Procedure.

Preliminary Matters

Both Tenants have previously participated in this dispute with the RTB which included the RTB issuing Orders related to Notices to End Tenancy, a dispute about rental rates, a request for the Landlord to comply, and a request for the RTB to declare jurisdiction over these disputes.

Tenant B was the subject of a September 20, 2024, hearing that resulted in a September 28 Decision, and Tenant A was the subject of an October 1, 2024, hearing that resulted in an October 2, 2024, Decision.

Both decisions found that these tenancies are within the jurisdiction of the RTB.

The Tenants' Advocate stated that a fellow tenant of the RV park has filed a judicial review of their own application related to whether their tenancy was continuing at the RV Park in question because the has previously stated that they want to close operations.

The Tenants' Advocate referred to evidence provided of email correspondence with a senior CEU investigator regarding the files of the two Tenants in this joined dispute.

The Tenants' Advocate stated that they are back at the RTB for a new Decision because they argued the Landlord is not following the Orders issued previously by the RTB regarding the allowable rate of rent to be charged and the Landlord has not complied with the Order to continue provided essential services.

The files before me were joined by Information Services staff after the Tenants filed an RTB-19 Request to Join Applications (signed and dated by both Tenants on January 24, 2025) due to the Tenants both living in the same RV Park and living similar experiences with the named Landlord in this dispute.

Background and Evidence

Tenant A has been occupying their site in the RV park for 7-8 years and Tenant B. has been occupying their site in the RV park for 4 years.

Tenant B stated that their agreement was always verbal with nothing written.

The Tenants' Advocate stated that the Landlord closed off the onsite Showers and Laundry on or around November 21, 2024. Tenant T.H. confirmed that these amenities were coin operated but previously available on a defined schedule. The Tenants both confirmed that they retain sewage and water connections to their homes.

The Tenants' Advocate also stated that the Landlord has stopped garbage collection at the Park since early January 2025. Tenant A stated that the dumpster at the Park was previously collected every Monday and Friday.

The Tenants agreed that their current rate of rent is \$695.00 and that the Landlord has always charged electricity on top of monthly rent.

The Tenants' Advocate referred to evidence of payment receipts for November – January 2025 to show that the Tenants recouped the amounts they were ordered to recoup in the previous RTB Decisions but argued that the Landlord has been charging the Tenants more money since these original amounts were recouped.

The Tenants' Advocate referred to the original RTB decisions to argue that the Tenants agreeing to pay an amount charged, is not their acceptance of the Amount charged.

The Tenants' Advocate stated that they want the Tenant A to be reimbursed the costs of GST and argued that as per the terms of the October 2, 2024, Decision, the Landlord was not supposed to be charging GST.

Tenant A is claiming \$86.00 as the requested return of these charges under 36(5) of the Act.

The Tenants' Advocate explained the larger claim from Tenant B for return of GST/PST. They also explained that Tenant B is charged for Storage (for parking a storage trailer on a second lot within the park) and was also previously charged for parking of an additional vehicle at the Park.

Tenant B stated that they still have storage but no longer have this second vehicle.

Tenant B is claiming \$1,129.00 in compensation, which consists of:

G.S.T. CHARGES: \$349.00

STORAGE FEE INCREASE: \$580.00

PARKING: \$200.00

The Tenants' Advocate referred to evidence of cash payment summaries by Tenant B to demonstrate their history of payment, and argued that the historical charge for storage, which has been charged for since shortly after this tenancy started, was \$40.00 a month.

The Tenants agreed that their respective claims to dispute the rent increases as well as their claims for Landlord compliance are related to the Landlord's continued actions in charging GST/PST on the monthly transactions while the Tenant's pay rent.

The Tenants agreed that the Landlord is charging the approved rate of rent (as instructed in the prior RTB Decisions_ as a line item on the overall monthly charge to the Tenants for continuing to occupy their sites at the Park.

The Tenants' Advocate was not familiar with the legal principle of Res-Judicata when asked during the participatory teleconference hearing. They were also unfamiliar with section 7 of the Act which requires parties concerned with non-compliance of the other party, to minimize their own losses under the Act.

I informed the Tenants and their Advocate that I was familiar with the RV park in question and the Landlord's previous efforts to close the Park because I was previously assigned a Dispute Resolution claim from the tenant who occupied pad site 63 within the park.

Tenant B advised that of the 100-120 sites in the park, maybe 20-30 remain occupied as of the day of the hearing

Analysis

As set out in RTB rule of procedure 6.6., the onus of proof at the RTB is the "balance of probabilities" which means that decisions are made based on what the Arbitrator finds is more likely than not to be true.

Consistent with the guidance provided in *Moon v Vizi, 2024 BCSC 1068* (see para 28) I find it appropriate to diverge from the typical organizational style of RTB Decisions so that I can best address what I understand to be the substance of the joined claims of the Tenants who appeared before me.

Landlord Charging of GST/PST

I find that that I have no authority or jurisdiction under the Act to consider the Tenants' request for return of GST/PST charged by the Landlord. I make these findings because I am an employee of the Ministry Housing and Municipal Affairs, not the Ministry of Finance, and because GST/PST are not specified fee types within the Act or Regulations.

I therefore dismiss the portion of the Tenants' claim that involves their request for return of fees paid for GST/PST and do not give leave to reapply for want of jurisdiction.

Res Judicata

Res Judicata is a legal doctrine which means that a matter that has been adjudicated by a competent court may not be pursued further by the same parties.

In the joined case before me, both parties agreed that they previously received Orders from the RTB confirming that their current rate of monthly rent is \$695.00 and so I find that I am prevented by Res Judicata from considering the Tenants' respective claims.

I therefore dismiss the Tenants' respective claims to dispute rent increase above the amount allowed by law because this matter was previously addressed by the RTB and evidence of monthly payments provided by the Tenants in this dispute, suggests that the Landlord continues to charge the duly authorized rate of rent to the Tenants.

Order for the Landlord to Comply

The Tenants indicated that the Landlord has since closed coin laundry/shower services at the Park and has also stopped providing garbage collection services, which used to be provided twice a week.

I refer to the September 28, 2024, Decision for Tenant B which includes the following:

Under section 55 of the Act, I order the Landlord to continue to provide essential services as required by section 21 of the Act, including:

- (a) water, sewerage, electricity, lighting, roadway and other facilities;
- (b) utilities and related services;
- (c) garbage facilities and related services;
- (d) laundry facilities;
- (e) parking and storage areas;

I also refer to the October 3, 2024, Decision for Tenant A which includes the following language:

Under section 55 of the Act, I order the Landlord to continue to provide water and electricity, as essential services required by section 21 of the Act.

While I recognize that the language used in the decision to Tenant A does not include the longer list of Services and Facilities as cited in the Definition section of the Act, and in the Decision to Tenant B, I also note regarding the Tenants' report that laundry and showers are no longer available at the Park, that:

- The parties testified during the hearing before me that the services now closed to them were coin operated and required funds over and above monthly charges for rent.

- Neither party provided me with a written tenancy agreement which specifically included convenient access to coin operated laundry and showers as a material term of the tenancy agreement as is required by section 21(b) of the Act.

I therefore find that the Tenants failed to establish on the balance of probabilities that they are entitled to an Order for the Landlord to Comply requiring them to return coin operated shower and laundry facilities at the Park.

Regarding the testimony from the Tenants that the Landlord has stopped providing garbage pick up services, I find that the Orders previously provided by my colleague to the Tenants can be read as requiring the Landlord to continue providing garbage collection as an **essential service** at the residential property.

I therefore find that Res Judicata prevents from considering this portion of the claim from the Tenants any further.

Different Functions of the RTB

The RTB has three main functions:

- Information Services who answer phones, respond to emails, and process applications for dispute resolution
- Dispute resolution services who provide legally binding Decisions and Orders
- The Compliance and Enforcement Unit (CEU) who investigate allegations of repeated or serious and deliberate violations of the Residential Tenancy Act or the Manufactured Home Park Tenancy Act and exercise their delegated authority under the Act to levy administrative penalties where they find it necessary

The Tenants' Advocate confirmed during the hearing in front of me that CEU representatives have been engaged with the Tenants.

As noted above, I am barred by Res Judicata from considering the Tenants' claims to dispute rent increases associated with their ongoing tenancies as well as their claims for Orders to comply regarding services and facilities previously provided by the Landlord.

Claim from Tenant B for Return of Storage and Parking Fees

As seen in the Definition section of the Act:

"rent" means money paid or agreed to be paid, or value or a right given or agreed to be given, by or on behalf of a tenant to a landlord in return for the right to possess a manufactured home site, for the use of common areas and for services or facilities, but does not include a fee prescribed under section 89 (2) (k) [regulations in relation to fees];

I therefore find that the claim from Tenant B for what they describe as inappropriate increases to their monthly charge for storage/parking are not subject to the annual rent increase limits of the Act and Regulations.

I dismiss this portion of the Tenant's claim and do not give leave to reapply.

Authorization to Recover the Filing Fee

I find that the Tenants were not successful in these applications because I have found for the reasons discussed above, and so I dismiss their claims to recover the costs of these applications from the Landlord.

Conclusion

I dismiss portions of the Tenants' claims for compensation for loss related to GST/PST for reasons of Res Judicata.

I dismiss the other portion of the claim from Tenant B for compensation for Loss regarding storage and parking fees and do not give leave to reapply.

I dismiss the Tenants' claims to dispute a rent increase for reasons of Res Judicata.

I dismiss the Tenants' claims for an Order for the Landlord to comply regarding garbage collection for reasons of Res Judicata.

I dismiss the Tenants' claim for an Order for the Landlord to comply regarding the provision of laundry and shower facilities, and do not give leave to reapply.

I dismiss the Tenants' claims for to recover the filing fees for this application and do not give leave to reapply.

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

Dated: March 7, 2025

Residential Tenancy Branch