Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Codes DRI, OLC

Introduction

This hearing concerned each Applicant's application for dispute resolution regarding a rent increase issued by the Respondent. The Applicants take the position that the rent increase is in violation of Part 4 of the *Manufactured Home Park Tenancy Act* (the Act).

The parties are referred to herein as "applicant" and "respondent" rather than "landlord" and "tenant" to avoid any confusion and/or misunderstanding that use of the latter terms may connote a legal standing in that capacity to each party.

Background and Evidence

The Respondents state they operate an RV park, held open to the public under the business name "T. RV Park." The Respondents submitted a copy of their RV Park rate sheet which advertises the park as providing "fully serviced RV sites" and storage. Respondent R.A. testified they started the RV park approximately 20 years ago as a storage area for recreational vehicles and over time became an RV park as more people requested and received permission to stay in their recreational vehicles on the property. Respondent R.A. stated there are currently approximately 50 recreational vehicles present, some of which he owns and rents out. Respondent R.A. states there are no written agreements for the occupation of each site and he has always operated on "hand-shake deals" for site rentals.

Respondent R.A. testified that in 2011 the CRA determined the RV park was a "long-term RV site rental" and not a "residential trailer park" for purposes of GST. Respondents were thus required, and have since that time, charged their customers GST on site rentals. Site rentals include utilities, and Respondents included copies of utility billing statements and invoices paid by Respondents for the RV park.

There are no park rules and regulations to which site users must sign, but the Respondents impose rules on site users by means of a posted reminder notice. A copy of the most recent "Springtime Reminder" notice was provided in evidence. The

reminder notice states pets must be leashed, vehicles must be operated at low speeds as there are children present, no hoarding, no burning of items, to wash recreational vehicles, requests the use of electricity “responsibly,” and provides the office hours. The notice dated “March 2025” provides that rent will increase $50.00 on April 1, 2025.

Applicants F.C., who also represented Applicants R.P. and J.N., both close family members who were unable to attend the hearing, stated they did not have a written tenancy agreement with the Respondents and had declined to sign a license agreement as requested by the Respondents. Applicants F.C. and S.C. stated they provided Respondents with a $250.00 damage deposit when they moved onto their site in November 2018. Their trailer is on wood blocks and they have since built a deck and roof over their 5th wheel. They have also erected a small greenhouse on their site. Photographs of the Applicants’ 5th wheel were provided in evidence. The Applicants testified they reside in the 5th wheel on a permanent basis. Their mail is delivered to a post office box located at the post office in town. Applicant F.C. explained the Respondents have a laundry and shower facility in a separate building on the property, and these facilities are open to the public. Applicant F.C. stated she did not receive a copy of the spring reminder notice in person from the Respondents but rather saw it posted in the laundry room.

Applicant V.A. testified she has a travel trailer and moved onto her site on March 1, 2022. She currently pays $650.00 per month for her site rental. Applicant V.A. testified she receives her mail at a post office box at the local post office. She has a travel trailer with a step down and steps attached. Applicant V.A. explained her trailer is on steel stands. She remains in her trailer on a continuous basis. Applicant V.A. testified that she also provided a $325.00 deposit to the Respondents. She does not have a written tenancy agreement and declined to sign a license agreement recently proffered by the Respondents.

Applicant J.D. stated she moved onto her site on February 1, 2022. She pays $600.00 per month for her site but was not required to pay a deposit. She too has no written tenancy agreement and declined to sign the license agreement which she stated she received from Respondents approximately one month prior to the hearing. Applicant J.D. testified she has a 5th wheel that is on blocks on the site. She uses the 5th wheel as her home. She does not have a deck but did place a fence around her site, for her garden. The fence is approximately 8 feet high, made of heavy gauge metal. The posts are in cement. Applicant J.D. also has a storage shed where she keeps her tools. The Landlord provided a photograph of J.D.’s site as well. Applicant J.D. stated she did not receive a copy of the spring reminder notice from the Respondents and was not aware of the rent increase at that time.

Applicant F.C. stated Applicant J.N. had a “tow-behind” 28-foot trailer which was placed on blocks on the site. He also had a small storage shed, but no other improvements at

his site. Applicant J.N. resides in his trailer since April 1, 2022. The Respondent provided a photograph of J.N.'s trailer and site as well.

Applicant F.C. also provided information regarding Applicant R.P.'s site. R.P. also has a 5th wheel trailer approximately 28-feet long where she has resided since moving to the RV park on July 1, 2020. She has installed a deck with a roof-covering over her 5th wheel that also covers her slide-outs. Applicant F.C. described R.P.'s site as "beautiful" with flowers. R.P. also has 2 storage sheds, estimated at 8 x 10 and 8 x 12 feet; the sheds were described as "dome-shaped." The Landlord provided a photograph of Applicant F.C.'s site as well.

Applicant J.C. stated the rent increase notice was improper as it was posted in the community laundry room. She stated that it was posted in March 2025, and indicated a rate increase effective April 1, 2025 – only 2 weeks from the time of posting. Applicant J.C. stated the Respondents should be required to provide a 3-month notice of rent increase as set forth in the Act and thereby be limited to (at present) a 3 percent rent increase of $18.00 for their site rather than the $50.00 increase. Although in the past she had not insisted upon notice of rent increase in the form required under the Act, Applicant J.C. stated this year she was taking this position. She stated she was unaware the Landlord was charging GST as included in the rent. Applicant S.C. concurred and stated the Respondents' notice was not correct, was not calculated correctly but he was unaware of the GST as well.

Respondent R.A. explained when he first started the RV park he was of the opinion that GST was not charged as the recreational vehicles on the property were similar to mobile homes. However, the federal tax audit in 2011 determined GST was applicable and since that time the Respondents have paid the tax. In 2025, he stated it was included in the rent increase notice. He further stated that, unlike a manufactured home park, he did not assess site users water or utilities, as it is noted is provided for under the Act. He stated resident's trailers and 5th wheels are not connected to water with frost-free connections and thus, in the winter, he stated that occupants leave the water running thereby increasing his water utility bill. Respondent R.A. testified in 2021 the water bill for the property was $8,300.00 for the year but the most recent utility bill was $31,000.00.

In their written submissions, the Respondents provided photographs of each of the Applicants' sites and it was noted in the submissions that residents of the RV park are not entitled to make permanent improvements to their sites.

Respondents stated they have had no prior proceedings before the RTB and only on one occasion did they utilize a 10 Day Notice form to advise a resident of the need to move from the site for unpaid rent. It was unclear if the individual was in a trailer owned by the Respondents or owned his/her own trailer. Respondent R.A. stated this occurred approximately a year ago and the individual moved out after service of the Notice.

Respondents testified they do not have formal park rules and regulations other than that provided in their spring and fall reminder notices. Respondent A.A. testified she handed a springtime notice to each occupant of each site in the RV park. She further testified the occupants were all advised a year prior to the rent increase of an intended rent increase in 2025. Respondents stated this is the second time they have increased rent by $50.00 per site. Respondents stated that long-term occupancy of a site is an option for individuals.

Applicant F.C. stated she did not receive the springtime reminder by hand-delivery from the Respondents. Applicants V.A. and J.D. also stated they did not receive a springtime notice by hand-delivery from the Respondents. Applicant J.D. stated she received the first notice of rent increase by hand-delivery but not the second. All Applicants in attendance at the hearing agreed they only had 2 weeks notice before the effective date of the rent increase. Applicants stated they were not opposed to a rent increase but wanted it to be in the proper amount; that is, limited to 3 percent. It is noted that under the Act, a landlord may include in a rent increase not only the percent authorized each year by the legislature, but also a proportionate amount of the landlord's cost of utilities, property taxes, solid waste management fees, government levies and other taxes and fees as set forth in the Notice form RTB 11-a.

Respondents stated they were trying to make the RV park affordable for individuals and each year they notify site occupants of an intended rent increase for the following year.

Analysis

Respondents' submissions contend the Applicants reside in an RV park, not a manufactured home park, and thus the RTB lacks jurisdiction under the Act to adjudicate their application disputing the rent increase.

Section 2 of the Act provides: "(1) Despite any other enactment but subject to section 4 *[what this Act does not apply to]*, this Act applies to tenancy agreements, manufactured home sites and manufactured home parks."

A tenancy agreement, by definition under section 1, need not be in writing and can be implied "respecting the possession of a manufactured home site, use of common areas and services and facilities." In contrast,

Section 1 of the Act further defines:

> "manufactured home park" means the parcel or parcels, as applicable, on which one or more manufactured home sites that the same landlord rents or intends to rent and common areas are located;

> "manufactured home site" means a site in a manufactured home park, which site is rented or intended to be rented to a tenant for the purpose of being occupied by a manufactured home;

Policy Guideline 9 sets forth these definitions from the Act and states, in relevant part:

> Tenancy agreement is defined in the Manufactured Home Park Tenancy Act (MHPTA), as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a manufactured home site, use of common areas and services and facilities. It does not include a licence to occupy.
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> Under the MHPTA [section 1], a manufactured home is defined as a structure, other than a float home, whether or not ordinarily equipped with wheels, that is
> • designed, constructed or manufactured to be moved from one place to another by being towed or carried, and
> • used or intended to be used as living accommodation.

The issue presented in this case is whether the Respondents' storage and RV park qualifies as a manufactured home site or manufactured home park under the Act. Judicial opinions have listed factors an arbitrator must consider in determining whether the facts support a finding that the case involves manufactured homes and/or a manufactured home park subject to the Act and regulations. No one factor is determinative of the issue.

The initial burden to establish the Act applies rests on the party who has submitted the application. In *Wiebe v Olsen*, 2019 BCSC 1740, which concerned a determination of whether the Act applied, the court stated:

> Once an applicant has demonstrated that they have exclusive possession for a term and that rent is paid, the Guideline provides for a presumption that there is a tenancy, suggesting that at that point at least an evidentiary burden should shift to the respondent.

Policy Guideline 9 lists the factors for consideration in the analysis. One factor is the permanence of the structure to the site and its use as a primary residence. The court in *Steeves v. Oak Bay Marina Ltd*., 2008 BCSC 1371, the BC Supreme Court found:

> the MHPTA is intended to provide regulation to tenants who occupy the park with the intention of using the site as a place for a primary residence and not for short-term vacation or recreational use where the nature of the stay is transitory and has no features of permanence.

In *Steeves* the tenants owned or purchased manufactured homes that were affixed to sites within a designated manufactured home park. The court noted at the outset that for purposes of the issue raised in the case (that is, whether the tenants had an interest in the land under a theory of proprietary estoppel to preclude the landlord from obtaining vacant possession of the land), the Act applied.

Based upon the *Wiebe* decision, factors of permanence are listed in Policy Guideline 9, and include:

- The home is hooked up to services and facilities meant for permanent housing, e.g. frost-free water connections;
- The tenant has added permanent features such as a deck, carport or skirting which the landlord has explicitly or implicitly permitted;
- The tenant lives in the home year-round;
- The home has not been moved for a long time.

Policy Guideline 9 states: “While not solely determinative, if the home is a permanent primary residence then the MHPTA may apply even if the home is in an RV park or campground.”

On the other hand, the guideline itemizes those factors that may suggest the Act does not apply, which include:

- the park (or property) owner retains access to or control over portions of the site and retains the right to enter the site without notice;
- rent is charged at a daily or weekly rate, rather than a monthly rate and tax (GST) is paid on the rent;
- the parties have agreed that the occupier may be evicted without a reason, or may vacate without notice;
- the agreement has not been in place for very long;
- the property owner pays utilities and services like electricity and wi-fi;
- there are restricted visiting hours;
- payment of a security deposit; and
- the parties have a family or personal relationship, and occupancy is given because of generosity rather than business considerations.

In this case, the evidence establishes the Applicants each make a monthly payment to the Respondents for exclusive possession of a site where their respective 5th wheels or travel trailers are situated. Each Applicant uses their trailer as a permanent residence, some of which had add-ons such as decks, stairs or RV roofs; and some with portable storage sheds on the site. Several trailers had their tires removed and were resting on blocks.

Unlike the landlord in *Steeves*, the Respondents have held their park open and have commensurately advertised their property as an “RV park and storage” area. Respondent R.A. testified the business first started as a storage park and then developed into a RV park of approximately 50 sites. Respondent R.A. acknowledged that long-term stays are “an option.”

The CRA ruling states:

Residential Trailer Park vs. Trailer Park
The trailer park was constructed to serve RV's, motor home and travel trailers. None of the sites were built to serve permanent mobile homes nor are any in place. As such for the trailer park to qualify as a "residential trailer park" 90% or more of the sites occupied with a travel trailer or motor home have to be used on a continuous basis and for at least 12 months.

Thus, the agency determined the RV park was not designed as manufactured home park with no manufactured homes situated within the park.

The park is advertised as an RV and storage park, with daily rates plus GST. Respondents also pay for and provide utilities for the recreational vehicles on the property. Respondents’ written submissions point out that none of the recreational vehicles have frost-free connections to the water utility.

Although Applicants J.C and S.C. have been on the property since November 2018; Applicant R.P. since July 1, 2020; Applicant J.D. since February 1, 2022; Applicant V.A. since March 1, 2022; and Applicant J.N. since April 1, 2022, their recreational vehicles may still be moved as only the wheels have been removed and the homes may rest on blocks. These 5th wheels and trailers have not lost their ability to be mobile should the need arise. Photographs of each site confirm that improvements made to their site are not permanent as the vehicles are not affixed, with the limited exception of one fence that was erected, which could be removed as well and which was unclear whether the Respondents had granted permission for its construction. This contrasts with manufactured homes which require placement on a trailer and once affixed to the land are considered permanent. It is noted that placing a recreational vehicle on blocks is done to protect the vehicle’s tires from deterioration and to stabilize the vehicle. Blocks can be removed and the tires re-attached, whereas manufactured homes are constructed for the purpose of permanent affixture to the land.

Respondent R.A. stated his intention was to help people with their long-term need for housing but testified that long-term stays are optional. As such, the Respondents retain the right to revoke or refuse permission for a long-term stay. Furthermore, the Respondents stated they have never resorted to the RTB for the removal of an occupant from a site and only used a Notice to End Tenancy form on one occasion for a site occupant Respondent R.A. stated had mental health issues.

Respondents have collected security or damage deposits from Applicants J.C. and S.C. as well as Applicant V.A. Additionally, the recreational vehicles, as distinct from manufactured homes, while livable, can be utilized as homes on a long-term basis at the RV park by virtue of the laundry and shower facilities operated by the Respondents.

Based on the evidence presented, I find the Applicants' long-term stay, use of the recreational vehicle as their home, and improvements made to certain of their sites, are insufficient to establish they have a tenancy in a manufactured home park as defined under the Act.

Considering the totality of the circumstances, I find the Respondents are operating an RV park with site users on the premises pursuant to a license to occupy. The Respondents advertise their property as an RV park and storage facility, with rates charged on a daily basis although collected monthly from the Applicants. The Respondents have with respect to two Applicants collected security deposits. The federal tax agency has determined the park does not meet a residential manufactured home park but remains an RV park for which it requires the Respondents to charge site users GST. There seems to be no eviction procedure used by the Respondents, with the sole exception of the use of Notice to end tenancy on one occasion which did not culminate in an application to the RTB. Respondent R.A. states he operates on a "hand-shake basis" with site occupants. No evidence was adduced by either party as to the Respondents ability to access individual sites. The Respondents springtime reminder notice is more a reminder to keep sites clean and drive slowly because of children in the area than the more rigorous and detailed rules and regulations that are regularly made part of tenancy agreements in manufactured home parks.

Conclusion

I decline to proceed due to a lack of jurisdiction.

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

Dated: June 29, 2025

Residential Tenancy Branch