



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding OGOPOGOO MOTEL  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC

### Introduction

This hearing dealt with an Application for Dispute Resolution made by the Tenant, seeking monetary compensation from the Landlords, under the *Manufactured Home Park Tenancy Act* (the “Act”).

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Preliminary Issues

The Tenant had named several respondents in his Application as the Landlords. The Tenant had done a business search and added some of the names found there. The Agents for the Landlord testified that not all of the names listed by the Tenant were still owners or Landlords at the property, and it appears the business record may not have been updated when the business was last sold.

The Agents for the Landlord testified they had informed the one correctly named owner that they had been served with the claim of the Tenant. The Agents provided the correct spelling of this owner’s name. With the agreement of the Tenant and the Agents for the Landlord I have amended the style of cause in this matter to delete the parties who were named improperly and to correct the spelling errors.

The Agents for the Landlord also raised the issue of jurisdiction as they felt the Act had no jurisdiction on their business. They testified they are zoned for a motel and

campground and not a manufactured home park. They testified they are either under the Innkeepers Act or the Residential Tenancy Act. Despite this argument the Landlords had issued the Tenant a 10 day Notice to End Tenancy using the Branch form during the tenancy. They used a simple form of agreement with the Tenant which includes a statement the agreement was for an extended stay under the Innkeepers Act.

The Tenant had moved his trailer onto the property in the summer of 2012 and the tenancy was ended in June of 2014. At some point during this time the Tenant moved his trailer onto an unmarked site by the office, as he began working for the Landlord, in partial exchange for the rent. I find that a rental of two years is significantly longer than a short term holiday stay. The Landlords provided no evidence on what is defined as an extended stay under the *Innkeepers Act*.

Under the definitions portion of the Act, a manufactured home is defined as a structure, whether or not ordinarily equipped with wheels, and that is designed to be moved from one place to another, and used or intended to be used as living accommodation. In this instance the Tenant owned the trailer and was living in it on the sites provided by the Landlords. This was his residence and living accommodation. He testified that he did not move out of the park during this time, he lived in his trailer year around.

Based on the foregoing, I find this was a long term tenancy and the parties established a tenancy under the Act. Under section 5 of the Act, the Tenant and the Landlords may not avoid or contract outside of the Act and any attempt to contract outside of the Act is of no effect. Therefore, I find there is jurisdiction under the Act.

#### Issue(s) to be Decided

Is the Tenant entitled to monetary compensation from the Landlords?

#### Background and Evidence

The tenancy began in the summer of 2012, with the Tenant originally renting site 23. There was a simple written agreement setting out it was a monthly rental. The Tenant testified he paid \$500.00 a month in rent for the site.

The Tenant testified that in the summer of 2013, he began working for the Landlord in exchange for a reduced rent. He would work for the Landlord and pay \$250.00 per month for rent for the site. The Landlords asked the Tenant to move his trailer closer to

their on-site office and the Tenant did so. The Tenant testified that the Landlords did not pay him much money and often paid him for his work with food and alcohol.

The Tenant submitted that he had issues with one of the property managers of the Landlord. He testified that this property manager cut off the power to his trailer on three different occasions in the winter months. The Tenant submitted that the property manager had done this because he was drinking and he became miserable.

In May of 2014, the Tenant left the area where the subject rentals site is located, to attend a wedding in another town. On or about May 31, 2014, the Tenant received a phone call from his brother that his trailer was no longer at the rental site. When the Tenant contacted the Landlords they informed him they had his trailer towed off the property.

The Tenant claims **\$101.43** for the cost of getting his trailer out of storage from the towing company. The Tenant has supplied a receipt in this amount,

The Tenant claims **\$103.40** for the storage cost of his trailer for one month. In evidence the Tenant supplied a receipt for this amount.

The Tenant claims **\$60.00** for the cost of having to move his other property into storage. In evidence the Tenant supplied a receipt for this amount.

The Tenant claims **\$180.00** for the cost of gasoline in travelling to where the trailer was towed to. In evidence the Tenant supplied a receipt for this amount, although this is not from a gas station.

The Tenant claims **\$790.00** for replacement of his DVD collection. He testified that these DVDs went missing from his trailer and that is the fault of the Landlords.

The Tenant also claims for **\$105.00** for the cost of some Blu-Ray disks sold to a pawnbroker. The Tenant claims he had to pay a helper for moving and he used 30 Blu-Ray disks to pay the helper.

In reply the Agents for the Landlords denied removing the DVDs from the Tenant's trailer. They testified they have no DVD player and would not have any use for these. They suggested that the DVDs the Tenant is claiming for may have been taken from the trailer while it was in storage. The Agents also alleged that the Tenant was going to the pawn shop three or four times a week and that these may have been pawned.

They denied breaking into the Tenant's trailer.

The Agents allege that they found the Tenant removing items from a supply room on the property in March of 2015, well after the tenancy had ended.

The Agents testified they had the trailer towed because the Tenant was working in another city, when he should have been working at the park site. They allege he did not pay them the reduced rent or do the work to offset the reduced rent. They testified they did try to contact the Tenant before they towed the trailer.

In reply, the Tenant denied he was working in a different city. He provided a letter in evidence from a third party who writes the Tenant was attending his daughter's wedding, "... on May 18<sup>th</sup> till June 01/14."

### Analysis

I note that portions of this dispute arise out of an employment agreement between the parties. As I explained to the parties during the hearing, the Act only provides me authority to make determinations in regard to the rental relationship. The parties should consult with legal counsel for advice on where to bring the employment issues for resolution.

Based on the above, the evidence and testimony, and on a balance of probabilities, I find the Landlords are in breach of the Act.

Under the Act if the Landlords wanted to end the tenancy because they were ending the employment of the Tenant or because he had failed to pay rent, they were required to give the Tenant a one month Notice to End Tenancy for cause under section 41 of the Act, or a 10 day Notice to End Tenancy for unpaid rent under section 39 of the Act.

Even if the Landlords had issued such Notices and the Tenant had ignored them, they still had no authority or right under the Act to have the trailer moved without receipt of an order of possession from the Branch and a writ of possession from the Supreme Court of British Columbia.

Simply put, this was an illegal eviction and the Landlords had no right or authority to tow the Tenant's trailer.

Section 60 of the Act sets out how compensation may be awarded:

Without limiting the general authority in section 55(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the Tenant incurred a loss when he had to get his trailer out of the storage area where it was towed to and I allow **\$101.43** for the cost of getting his trailer back from the towing company.

I find the Tenant incurred a loss of **\$103.40** for the storage cost of his trailer for one month, and I allow this amount.

I allow the Tenant **\$60.00** for the cost of having to move his other property into storage as this loss was incurred to the breach of the Act by the Landlords.

I do not allow the claim for **\$180.00** for the cost of gasoline. I find the Tenant had insufficient evidence this amount was spent on gasoline. The Tenant should have provided receipts for the cost of gasoline from the gas station it was purchased at, not from an unknown source. I dismiss this portion of the claim without leave to reapply.

I also do not allow the claim of **\$790.00** for replacement of the DVD collection. I find the Tenant had insufficient evidence he had owned any of these items, and in any event, he did not provide sufficient evidence on the present day value of these. I dismiss this portion of the claim without leave to reapply.

I also do not allow the claim for **\$105.00** for the cost of some Blu-Ray disks sold to a pawnbroker. I find the Tenant had insufficient evidence he paid a helper this amount or that these funds were lost due to the breach of the Landlords. I dismiss this portion of the claim without leave to reapply.

I find that the Tenant has established a total monetary claim of \$264.83, comprised of the above described amounts.

I grant the Tenant an order under section 60 for the balance due of \$264.83. This order must be served on the Landlords and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The Tenant has shown the Landlords did not comply with the legislation to end the tenancy in accordance with the Act. The Landlords also had no right or authority to tow

the trailer from the park. The Tenant has suffered a loss due to the non-compliance. The Tenant is granted a monetary order in the amount of **\$264.83** for the losses he was able to prove.

The monetary order must be served on the respondents and is enforceable in the Provincial Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 23, 2015

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Residential Tenancy Branch

