



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MND MNR MNSD MNDC FF

### **Introduction**

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- a monetary order for damage to the unit, site, or property, unpaid rent or utilities, or for money owed or compensation for damage or loss pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant requested:

- a monetary order for money owed or compensation as per the *Act*, regulation, or tenancy agreement,

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Both parties confirmed receipt of each other’s applications for dispute resolution hearing package (“Applications”) and evidence. In accordance with sections 88 and 89 of the *Act*, I find that both the landlord and tenant were duly served with the Applications and evidence.

### **Issue(s) to be Decided**

Does the tenant’s occupation of the dispute property fall within the jurisdiction of the Residential Tenancy Act?

If so, are the parties entitled to the monetary orders for which they have applied?

### **Background and Evidence**

Legal counsel for the landlord provided the following facts at the hearing. In May of 2016 the tenant approached the landlord and asked her if he could park his R.V. on her property. At the time the house was rented out to tenants. The tenant was friends with the landlord's late husband, and he had expressed interest in a rent-to-own arrangement, but no agreement was ever reached. Both parties agreed that the tenant may park his R.V. on the property, and reside in it, in exchange for pre-authorized maintenance on the exterior of the home. The agreement was made orally, and in writing. The handwritten agreement, dated August 30, 2016, was entered in evidence by the landlord. The agreement read "in lieu of money for renting area for his motorhome he is doing repairs to the house. All repairs are to be authorized by me, prior to undertaking". The agreement contains the signature of both parties at the bottom. The tenant completed work on the home, much of which the landlord maintained was not authorized. She also considered the work to be substandard. The landlord testified that she was never paid any rent by the tenant, and that he had also used the utilities without any payment. The landlord asked the tenant to leave on August 31, 2016, and the tenant had agreed. The tenant vacated the property on September 12, 2016. The landlord is seeking \$6,655.00 in compensation for the unpaid rent and utilities, and for the cost of repairing and repainting the home.

The tenant testified in this hearing that he was a tradesperson since 1974, and that the landlord had offered him the option to park his R.V. on her property in exchange for repairing the exterior of the home. There was a discussion about him renovating the home, and purchasing it from her later. The tenant testified that he had requested a formal rent-to-own contract from the landlord several times, but she had changed her mind and would not agree to sign an agreement. The tenant is seeking a monetary order in the amount of \$13,172.00 for the work that he did, plus the cost of moving.

### **Analysis**

The definitions of a "tenancy", "rental unit", and a "tenancy agreement" are outlined in the following terms in section 1 of the *Act*:

**"tenancy"** means a tenant's right to possession of a rental unit under a tenancy agreement;

**"tenancy agreement"** means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a license to occupy a rental unit.

**"rental unit"** means living accommodation rented or intended to be rented to a tenant;

Both parties gave evidence that there was an oral and written agreement for the tenant to park and reside in his R.V. on the landlord's property in exchange for authorized repairs. A copy of this signed agreement was entered into evidence. The tenant has never paid any rent, utilities, nor did he pay a security deposit. Although there was a discussion about a rent-to-own agreement, one was never reached, or signed. The agreement that was entered into by both parties pertains to the tenant's right to reside in his R.V. on the landlord's property in exchange for work to be done. This agreement did not pertain to the tenant's right to occupy any kind of rental unit as defined by the *Act*. On this basis, I find that a tenancy did not exist between both parties, and I am unable to consider the applications of either party as I have no jurisdiction in this matter.

**Conclusion**

I find that I do not have jurisdiction in this matter and I dismiss the applications of both parties.

This decision is made 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 19, 2017

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Residential Tenancy Branch