

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Port4homes Inc. v. Skogland*,
2026 BCSC 1062

Date: 20260609
Docket: S103631
Registry: Nanaimo

Between:

Port4Homes Inc.

Petitioner

And

Mary Jane Leena Skogland

Respondent

Before: The Honourable Justice Chan

Reasons for Judgment

Representative for the Port4Homes Inc.,
appearing in person:

M. Mallicoat
J. Walker

Counsel for the Respondent:

R.K. Sidhu

Place and Date of Hearing:

Nanaimo, B.C.
April 21, 2026

Place and Date of Judgment:

Nanaimo, B.C.
June 9, 2026

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Introduction

[1] The petitioner Port4Homes Inc. (the “Landlord”) owns and operates Rocky Creek Village Manufactured Home Community (the “Park”), a manufactured home park on Vancouver Island. The Park is owned by Margot Mallicoat’s parents. Ms. Mallicoat and her brother Joel Walker are employees of the Park and manage it.

[2] The respondent Mary Jane Leena Skogland and Timothy Michael Poilievre occupied site 66 at the Park starting in October 2020 pursuant to a tenancy agreement. In September 2021 there was a police incident involving Ms. Skogland and Mr. Poilievre. Mr. Poilievre stopped residing at the Park shortly after the incident. No new tenancy agreement was signed between Ms. Skogland and the Landlord.

[3] In September 2025, Mr. Poilievre was contacted by the Landlord and signed a mutual agreement to end tenancy, with an eviction date of September 30, 2025. The Landlord took the position that the tenancy was ended for both Mr. Poilievre and Ms. Skogland and requested that Ms. Skogland vacate her site. Ms. Skogland refused to vacate. The Landlord filed an application for dispute resolution with the Residential Tenancy Branch (the “RTB”), seeking an order for possession. The matter was heard on November 14, 2025 by Arbitrator Mau (the “Arbitrator”). The Arbitrator issued reasons on November 24, 2025, dismissing the Landlord’s application for an order of possession (the “Decision”). The Landlord seeks judicial review of the Decision, arguing it was patently unreasonable in its interpretation of the applicable legislation and the reasons were insufficient to explain the Arbitrator’s rationale. The Landlord seeks an order that the Decision be set aside and the matter be remitted to the RTB for a hearing before a different arbitrator.

Factual Background

[4] The tenancy commenced on October 1, 2020 with a monthly rent of \$570. Both Ms. Skogland and Mr. Poilievre were listed as tenants on the tenancy agreement.

[5] In September 2021 the Landlord became aware of a police incident at the Park involving Ms. Skogland and Mr. Poilievre. On September 12, 2021, Ms. Mallicoat sent the following email to Ms. Skogland:

Hi Mary, thank you for your text message. I don't know any details about what happened. What was reported to me is that there was some kind of a domestic issue in the park and the police were involved resulting in Tim leaving and it was reported to me that he would not be returning. That is what prompted me to reach out to your for more details so that I could get the paperwork prepared if necessary. If there indeed was an assault or criminal behaviour on the site then I have the power to end the tenancy. That resolves the issue of Tim being on the tenancy agreement. Then I could start a new tenancy that accurately reflects the situation currently or moving forward. That would not affect ownership or financial stake in the home. I have nothing to do with that. It would simply exclude him from rights to the site. Let me know how you would like me to proceed.

Obviously if there was a criminal act I would not like to have those persons living in our park any longer. However, I cannot and will not end the existing tenancy without a police report or Tim's agreement to end the tenancy.

Thank You

Margot Mallicoat (she/her)

Director, Tenant Affairs and Compliance

Port4Homes...

[6] Later on September 12, 2021, Ms. Skogland replied as follows:

Thank you, Margot,

There have been ongoing abuse issues with Tim. To date I have been unable to charge him, but was at least successful in his leaving. I am hoping that my appointment on Tuesday will provide me a clearer perspective and path forward. I will keep you informed as to relevant details.

I want you to know that I appreciate your care and understanding. This is a difficult time for me.

[7] Ms. Mallicoat responded as follows:

Let me know how I can help.

[8] Nothing was done by either party to have a new tenancy agreement listing only Ms. Skogland as a tenant signed.

[9] At the RTB hearing, a tenancy agreement with Mr. Poilievre's name crossed out was adduced in evidence. It was in dispute who crossed out Mr. Poilievre's name and when this was done.

[10] The Landlord adduced in evidence the mutual agreement to end tenancy signed by Mr. Poilievre in September 2025. The Landlord relied on the Residential Tenancy Policy Guideline 13 ("RTB Policy Guideline 13") with respect to co-tenancy and argued when one co-tenant ends the tenancy by mutual agreement, the entire tenancy ends. The Landlord had offered Ms. Skogland an alternative arrangement allowing her to keep her manufactured home on the site for sale, but Ms. Skogland declined.

[11] Ms. Skogland submitted evidence at the hearing that the Landlord had commenced previous eviction proceedings against her at the RTB which were not successful. Ms. Skogland had in September 2025 filed a small claims action against the Landlord for damage to property, legal fees and acts of nuisance. Ms. Skogland's position was the Landlord was acting in retaliation by relying on a mutual agreement to end tenancy signed by Mr. Poilievre who had not resided at the site since 2021.

The Decision

[12] The Arbitrator found the mutual agreement to end tenancy was signed by Mr. Poilievre and the Landlord on September 23, 2025 and required all tenants to vacate the site by September 30, 2025.

[13] The Arbitrator found she did not need to determine who had crossed out Mr. Poilievre's name on the tenancy agreement. The Arbitrator reasoned that "regardless of who crossed out TP's name, the crossing out of TP's name is insufficient to terminate TP's tenancy". The Arbitrator found for an amendment to a tenancy agreement to be effective, "the changes must be documented in writing". This can be done by "a separate addendum, by initialing and dating the amendment on the original agreement, or by creating a new agreement". As none of these actions occurred, Mr. Poilievre's tenancy was not terminated by the act of crossing out his name on the tenancy agreement.

[14] The Arbitrator then made the following findings:

Pursuant to section 37(1)(d) of the Act, I find that TP's tenancy ended in 2021 when TP vacated the manufactured home. Although the Tenant's counsel cited section 45.1(2) of the RTA and argued that TP's tenancy ended due to family violence, I find that this provision applies only to the RTA and not to the MHPTA, and there is nothing in the MHPTA with similar effect.

Based on the parties' submissions and the email correspondence provided, I also find that the Landlord knew TP had vacated and would not be returning to the manufactured home. By allowing MS to remain at the site after TP vacated, the Landlord effectively entered into a new but unwritten agreement with Ms. Accordingly, I find that when TP signed the Mutual Agreement – four years after vacating – he had no standing to do so. As a result, the Mutual Agreement dated September 23, 2025 is of no force or effect.

[15] The Arbitrator dismissed the Landlord's application for an order of possession without leave to reapply.

Preliminary Objections

[16] Ms. Skogland has filed two affidavits in response to the petition: an affidavit sworn by her on February 15, 2026, and an affidavit from an articulated student in her counsel's office. The Landlord objects to the admission of these affidavits.

[17] In *Air Canada v. British Columbia (Workers' Compensation Appeal Tribunal)*, 2018 BCCA 387, the court set out a principled approach on how to determine if new evidence ought to be considered on judicial review.

[39] In determining whether an affidavit is admissible on judicial review, the key question is whether the admission of the evidence is consistent with the limited supervisory jurisdiction of the court. Evidence that was before the tribunal is clearly admissible before the court. Evidence that casts light on the manner in which the tribunal made its decision will also be admissible within tight limits. Factual evidence setting out the procedures followed by the tribunal, or providing information showing that the tribunal was not impartial will also be admissible.

[40] With respect to "general background information", such information will be admissible only if it is confined to what the tribunal actually knew or acted upon. Thus, an affidavit may educate the court on matters that are within the specialized expertise of a tribunal, or which form the common understanding of those who operate in a particular field. Courts must be vigilant, however, not to accept affidavits that simply seek to shore up weaknesses in the record, or serve to provide a revisionist version of the tribunal's reasons.

[18] I have reviewed the affidavit of Ms. Skogland. Most of the affidavit repeats the chronology of events about the police incident, the emails sent in September 2021 between the parties, Mr. Poilievre's signed mutual agreement to end tenancy and Ms. Skogland's small claims action started in September 2025. However, some of the documents attached to the affidavit were not submitted at the RTB Hearing, such as a warning letter dated August 25, 2025, a copy of rent increase from 2023, an email dated July 8, 2024, and an email dated November 26, 2025 (exhibits B, C, D and G to the affidavit). As I understand it, the documents were submitted by Ms. Skogland to show the Landlord only communicated with her and not Mr. Poilievre after September 2021. These documents are relevant to a contentious issue of who were the parties to the tenancy agreement after Mr. Poilievre left the Park and were not before the Arbitrator. I have not considered these documents in coming to my decision.

[19] The affidavit from the articulated student attaches documents which were submitted to the RTB, such as the notice of claim in the small claims action, the emails between the parties in September 2021, and the tenancy agreement. There is nothing new in this affidavit.

Standard of Review

[20] The role of the court on judicial review is to ensure that a statutory decision maker or tribunal acted within its authority: *Dunsmuir v. New Brunswick*, 2008 SCC 9 at para. 28. The role of the court on judicial review is not to hear new evidence or argument or to re-decide the case: *PHS Community Services Society v. Swait*, 2018 BCSC 824 at para. 76.

[21] For decisions of the Director, RTB, the standard of review is patent unreasonableness pursuant to s. 5.1 of the *Manufactured Home Park Tenancy Act*, S.B.C. 2002, c. 77 [MHPTA] and s. 58 of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45 [ATA]. The MHPTA contains a privative clause:

Exclusive jurisdiction of director

77.1 (1) The director has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion

arising or required to be determined, and to make any order permitted to be made, in the following:

- (a) a dispute resolution proceeding;
 - (b) a review under Division 2 of this Part;
 - (c) a proceeding under Part 6.1.
- (2) A decision or order of the director on a matter in respect of which the director has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

[22] Section 58 of the ATA defines the standard of review where the legislation contains a privative clause:

Standard of review with privative clause

58 (1) If the Act under which the application arises contains or incorporates a privative clause, relative to the courts the tribunal must be considered to be an expert tribunal in relation to all matters over which it has exclusive jurisdiction.

(2) In a judicial review proceeding relating to expert tribunals under subsection (1)

- (a) a finding of fact or law or an exercise of discretion by the tribunal in respect of a matter over which it has exclusive jurisdiction under a privative clause must not be interfered with unless it is patently unreasonable,
- (b) questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly, and
- (c) for all matters other than those identified in paragraphs (a) and (b), the standard of review to be applied to the tribunal's decision is correctness.

[23] Section 58(3) of the ATA defines “patently unreasonable” with respect to a discretionary decision as a decision: (a) exercised arbitrarily or in bad faith; (b) exercised for an improper purpose; (c) based entirely or predominantly on irrelevant factors; or (d) that fails to take statutory requirements into account.

[24] As that term applies to questions of fact or law, a patently unreasonable decision has been described in the following way in *Speckling v. British Columbia (Workers' Compensation Board)*, 2005 BCCA 80:

[37] As the chambers judge noted, a decision is not patently unreasonable because the evidence is insufficient. It is not for the court on judicial review, or

for this Court on appeal, to second guess the conclusions drawn from the evidence considered by the Appeal Division and substitute different findings of fact or inferences drawn from those facts. A court on review or appeal cannot reweigh the evidence. Only if there is no evidence to support the findings, or the decision is “openly, clearly, evidently unreasonable”, can it be said to be patently unreasonable.

[Emphasis added.]

[25] The patently unreasonable standard is the most deferential standard of review. The approach to reviewing decisions must not be a “line-by-line treasure hunt for error”: *PHS Community Services Society* at para. 45, quoting *Communications, Energy and Paperworkers Union of Canada, Local 30 v. Irving Pulp & Paper, Ltd.*, 2013 SCC 34 at para. 54. It applies to findings of fact or law or an exercise of discretion by the RTB. The Court in *Speckling* at para. 33 described a “patently unreasonable” decision as one that is “openly, clearly, evidently unreasonable”. The Supreme Court of Canada described a result that is patently unreasonable as one where “the result must almost border on the absurd”: *Voice Construction Ltd. v. Construction & General Workers’ Union, Local 92*, 2004 SCC 23 at para. 18.

The Statutory Framework

[26] The parties agree the *MHPTA* applies. Section 37 of the *MHPTA* sets out how a tenancy may end:

How a tenancy ends

37 (1) A tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

(i) section 38 [*tenant's notice*];

(ii) section 39 [*landlord's notice: non-payment of rent*];

(iii) section 40 [*landlord's notice: cause*];

(iv) section 41 [*landlord's notice: end of employment*];

(v) section 42 [*landlord's notice: landlord's use of property*];

(vi) section 43 [*tenant may end tenancy early*];

(b) the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 89 (2) (a.1),

requires the tenant to vacate the manufactured home site at the end of the term;

(c) the landlord and tenant agree in writing to end the tenancy;

(d) the tenant vacates the manufactured home site or abandons a manufactured home on the site;

(e) the tenancy agreement is frustrated;

(f) the director orders that the tenancy is ended;

(g) the tenancy agreement is a sublease agreement.

[27] The *MHPTA* does not define co-tenants. RTB Policy Guideline 13 provides guidance on “the rights and responsibilities relating to multiple tenants renting a rental unit or manufactured home site under a single tenancy agreement.”

[28] Under section D of the RTB Policy Guideline 13, co-tenants are defined as “two or more tenants who rent the same rental unit or site under the same tenancy agreement.” Section G of the RTB Policy Guideline 13 is entitled “Ending a Tenancy”. The applicable portions of section G include:

...A tenancy may also end if the landlord and any tenant or co-tenant mutually agree in writing to end the tenancy. When a tenancy ends in these circumstances, the notice or agreement to end the tenancy applies to all co-tenants.

...

Co-tenants wishing to remain in the rental unit after a notice to end the tenancy has been given should discuss the situation with the landlord. If the landlord agrees to the tenant staying, the landlord and tenant must enter into a new written tenancy agreement.

If a tenant remains in the rental unit and continues paying rent after the date the notice took effect, the landlord and tenant may have implicitly entered into a new tenancy agreement. The tenant who moved out is not responsible for this new agreement.

Example: Dennis and Warren are co-tenants. Warren decides to give written notice to their landlord and moves out of the rental unit immediately, even though the effective date of the notice is not until the end of the following month. As a result of the notice, the tenancy will end for both Warren and Dennis at the end of the following month. Even though Warren moved out immediately, he is still responsible for paying the final month's rent, as he is a party to the tenancy agreement, and the tenancy agreement does not end until the end of the following month.

Both Warren and Dennis can be held accountable if any terms of the tenancy agreement are breached (such as unpaid rent or damage to the unit) between Warren's move-out date and the effective date of the notice. If Dennis wanted

to continue living in the rental unit, he must enter into a new tenancy agreement with the landlord.

Internal Review Process

[29] The Landlord did not apply to the RTB for internal review pursuant to s. 72 of the *MHPTA*.

[30] There is no absolute bar to bringing judicial review proceedings when internal review processes have not been exhausted—whether the court will conduct judicial review is a discretionary decision: *Colwill v. Workers' Compensation Board*, 2019 BCCA 453 at paras. 36, 39.

[31] The scope of internal review pursuant to s. 72 of the *MHPTA* is narrow. The grounds listed in s. 72 include *inter alia* an inability to attend the original hearing, new evidence, technical irregularity, the order was obtained by fraud or the original decision was outside the RTB's jurisdiction. The grounds for review do not include an argument that the decision was patently unreasonable. When a petitioner raises errors outside the scope of s. 72, the court can hear the petition for judicial review on the merits even if the internal review process has not been exhausted: *Shigani v. Taylor*, 2024 BCSC 979 at para. 47.

[32] In my view, the ground for judicial review relied on by the Landlord is not one of the grounds that can be raised in the internal review process. In the circumstance, the lack of an internal review does not preclude the Landlord from seeking judicial review of the Decision.

Was the Decision Patently Unreasonable?

[33] The Landlord argues the Decision is patently unreasonable. The Landlord argues the Arbitrator interpreted s. 37(1)(d) of the *MHPTA* in a manner contrary to the RTB Policy Guideline 13 on co-tenancy with no explanation. The Landlord argues the Arbitrator's finding that the tenancy of Mr. Poillievre was terminated in 2021 after he moved out is contrary to the wording of s. 37(1)(d), which references a manufactured home site being vacated and not just a manufactured home being vacated. Here, the

manufactured home site was not vacated as the mobile home remained and was occupied by Ms. Skogland. The Arbitrator does not explain how she interpreted s. 37(1)(d) to conclude that Mr. Poilievre had ended his tenancy in 2021. The Landlord argues the Decision is not sufficiently clear on the Arbitrator's reasoning to allow the parties to know why the decision—that Mr. Poilievre's tenancy ended in 2021—was reached and whether it is within a range of acceptable outcomes: *Laverdure v. First United Church Social Housing Society*, 2014 BCSC 2232 at para. 37.

[34] Ms. Skogland argues the Decision is not patently unreasonable, as the Arbitrator's finding that Mr. Poilievre had vacated the Park in 2021 was based on the evidence, including the emails between the parties in 2021. Ms. Skogland argues the RTB Policy Guideline 13 on co-tenancy did not apply, as by 2025 Mr. Poilievre and Ms. Skogland were no longer co-tenants. She argues the evidence supported the Arbitrator's finding that Ms. Skogland was the sole tenant since 2021, as the evidence showed the Landlord was aware that Mr. Poilievre no longer resided at the Park after 2021 and treated Ms. Skogland as the sole tenant.

Interpretation of Section 37(1)(d) of the MHPTA

[35] Section 37(1)(d) provides that a tenancy ends when “the tenant vacates the manufactured home site or abandons a manufactured home on the site”. Both “manufactured home” and “manufactured home site” are defined terms in s. 1:

"manufactured home" means a structure, other than a float home, whether or not ordinarily equipped with wheels, that is

(a) designed, constructed or manufactured to be moved from one place to another by being towed or carried, and

(b) used or intended to be used as living accommodation;

"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;

[36] The Arbitrator's finding that Mr. Poilievre's tenancy ended in 2021 pursuant to s. 37(1)(d) when he stopped living at the Park appears to be inconsistent with the words of the statute. It is not disputed that after 2021 their mobile home remained and Ms. Skogland continued to live there. As such, the manufactured home site was not

vacated. The Arbitrator does not explain if she interpreted “tenant” in s. 37(1)(d) to include only Mr. Poillievre, the person who departed the Park. However, even if “tenant” can be interpreted to include only one of the co-tenants, the evidence is the manufactured home site was not vacated as the mobile home remained. The Arbitrator does not explain how she interpreted s. 37(1)(d) in these circumstances to find that Mr. Poillievre ended his tenancy in 2021 when he vacated the manufactured home. To find that a tenant has vacated the manufactured home site in circumstances where the mobile home has not been removed would make the second situation contemplated in s. 37(1)(d) superfluous, referring to a tenancy ending where a mobile home is abandoned on the site. If the Arbitrator’s interpretation of “vacates the manufactured home site” includes situations where a tenant ends a tenancy by leaving the Park regardless of whether the mobile home is also removed, it is arguable the second situation contemplated in the section is not needed, setting out that a tenant also ends a tenancy when he “abandons a manufactured home on the site”.

[37] Another possible interpretation is that the two situations in s. 37(1)(d) are not exhaustive of all situations where a tenant ends a tenancy by leaving the site. The first situation—a tenant vacates a manufactured home site—may be given an expansive interpretation to include situations where the tenant leaves with the mobile home and also where a tenant leaves without the mobile home, but in situations where the mobile home is not “abandoned”. The Arbitrator did not explain how she interpreted s. 37(1)(d) to allow the parties and the court to assess her analysis.

[38] I am advised there are no prior court decisions considering s. 37(1)(d). There is no judicial guidance as to the criteria to be applied to conclude that a tenant has vacated a manufactured home site. The Arbitrator did not explain how she interpreted the section, or what authorities she relied on to justify her interpretation, which appears to be inconsistent with the express words of the section setting out a tenant ends a tenancy by vacating the manufactured home site (as opposed to just the manufactured home).

[39] Further, I agree with the Landlord that it is not clear from the Decision whether the Arbitrator appreciated the difference between vacating the manufactured home and vacating the manufactured home site. The Arbitrator made no finding that Mr. Poilievre vacated the manufactured home site. With no such finding, it is unclear how the Arbitrator concluded that Mr. Poilievre's tenancy was ended pursuant to s. 37(1)(d).

Guideline on Co-Tenancy

[40] The RTB issues residential tenancy policy guidelines to assist members of the public and to guide arbitrators as to the criteria to be used in the decision-making process. These guidelines are not law and they are not binding: *Powell v. British Columbia (Residential Tenancy Branch)*, 2016 BCSC 1835 at para. 33; *Morse v. Crystal River Court Ltd.*, 2021 BCSC 1868 at para. 32. However, failure to refer to the guidance or to address why the arbitrator chose to deviate from the guideline may suggest the arbitrator did not consider the factors in the guideline and the evidence led by the parties in relation to those factors: *Powell* at para. 81. As such, an arbitrator's decision may be patently unreasonable for ignoring or disregarding relevant evidence: *McDonald v. Creekside Campgrounds and RV Park*, 2020 BCSC 2095 at para. 70.

[41] The RTB Policy Guideline 13 on co-tenancies sets out the rights and responsibilities of co-tenants. The RTB Policy Guideline 13 provides that when two tenants reside in a manufactured home, one co-tenant moving out does not terminate the tenancy for either co-tenant. While the Arbitrator referred to the Landlord's reliance on the RTB Policy Guideline 13, the Arbitrator did not say if she found the RTB Policy Guideline 13 not to apply in the circumstances, and if so, why.

[42] The Decision is also not clear if the Arbitrator considered how a co-tenancy may impact the applicability of s. 37(1)(d). It is not clear if the Arbitrator considered the operation of the section in circumstances where one co-tenant has moved out but one co-tenant remains in the manufactured home.

[43] The failure of the Arbitrator to engage with the co-tenancy issue in terms of the application of s. 37(1)(d) shows, in my view, a failure to consider relevant evidence. The Arbitrator needed to consider the evidence of the co-tenancy and its impact on s. 37(1)(d).

Sufficiency of Reasons

[44] For reasons of RTB Arbitrators to be sufficient, they must: (1) set out the applicable legal test; (2) set out the findings of fact and the evidence upon which those findings were made; and (3) apply the test to those facts in a way that makes clear how and why the final decision was arrived at: *Laverdure* at para. 35.

[45] In *Laverdure* at para. 37, the Court said:

[37] In short, for reasons to be adequate, they need not necessarily address every issue raised by the parties nor all of the evidence adduced, but on the central issue or issues that underlie the conclusion reached there must be sufficient clarity of fact finding and application of those facts to the test to be met to allow the parties and a court to know why the decision was reached and whether it was within a range of acceptable outcomes.

[46] In my view, it is unclear what legal test the Arbitrator used to determine Mr. Poilievre's tenancy ended in 2021 such that he had no standing to sign a mutual agreement to end tenancy in 2025. The Arbitrator made a finding that Mr. Poilievre's tenancy ended in 2021 pursuant to s. 37(1)(d). As discussed, the Arbitrator did not provide any explanation of how she reached that conclusion with respect to the application of s. 37(1)(d).

[47] The Arbitrator also found "by allowing MS to remain at the site after TP vacated, the Landlord effectively entered into a new but unwritten agreement with MS". It is unclear in making this latter finding if the Arbitrator was not relying on s. 37(1)(d), but on the evidence of Mr. Poilievre leaving the Park, to find a new tenancy agreement had been created between Ms. Skogland and the Landlord in the years after 2021.

[48] The Arbitrator did not set out the findings she made as to the dealings between the Landlord and Ms. Skogland after 2021 to support her conclusion that a "new but unwritten agreement" had been entered between them with only Ms. Skogland as the

tenant. The Arbitrator needs to set out the legal test on how to determine if a new tenancy agreement has been entered, set out the findings of fact and evidence to support this new but unwritten agreement and apply the test to those facts to explain how the conclusion is reached.

[49] I note pursuant to the *MHPTA*, a tenancy agreement includes “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”: s. 1. In the RTB Policy Guideline 13, it is noted that “if a tenant remains in the rental unit and continues paying rent after the date the notice (to end tenancy) took effect, the landlord and tenant may have implicitly entered into a new tenancy agreement”. In my view, the definition of a tenancy agreement can encompass an oral, implied agreement between the parties based on the conduct of the parties.

Conclusion

[50] I find the Decision is patently unreasonable and is set aside.

[51] I remit the matter back to the RTB for a rehearing. I decline to make an order that the matter be decided by a new arbitrator as, in my view, such a direction would interfere with the assignment of matters at the discretion of the director of the RTB: *McDonald* at para. 89.

“The Honourable Justice Chan”