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ATTORNEY GENERAL OF WASHINGTON
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Manufactured Housing Dispute Resolution Program
•Consumer Protection Division•
1-866-924-6458

NOTICE OF VIOLATION

Date: March 11, 2010

Complainant: Kenneth Binkley
[REDACTED]
[REDACTED]

Respondent: Salmon Shores RV Park
Attn: Stephen Young
c/o John Woodring
[REDACTED]
[REDACTED]

RE: Complaint # 316894 – Kenneth Binkley

Pursuant to RCW 59.30.040, the Manufactured Housing Dispute Resolution Program has found there to be a **VIOLATION** of the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) with regard to the above referenced complaint. This notice is based upon the results of an investigation pursuant to RCW 59.30.040(3) and the information gathered to date.

Explanation of Violation

- (1) *RCW 59.20.070(6) – Charging Utility Fees in Excess of Actual Rates*
(a) The charging of utility fees in excess of actual rates is a violation of RCW 59.20.070(6).

Introduction

The Complainant, Mr. Kenneth Binkley, complained that Salmon Shores RV Park overcharged him for electricity. The Complainant filed a request for dispute resolution with the Manufactured Housing Dispute Resolution Program (MHDRP) on November 3, 2008. The MHDRP has now conducted an investigation and provides the following Summary of Investigation and Explanation of Violation.

Summary of Investigation

1. Parties

- a. The Complainant is a tenant in the Salmon Shores RV Park located in Olympia, Washington.
- b. The Complainant owns his recreational vehicle and has rented lot [REDACTED] during all times relevant to this Notice.
- c. Stephen Young is the registered owner of Salmon Shores RV Park.

2. RV Park

- a. Binkley owns his recreational vehicle (RV) and has paid rent to Salmon Shores RV park since February 2008.
- b. Ms. Gretchen Messelt, another resident of Salmon Shores, owns her RV, and has paid rent to Salmon Shores since approximately September 2005.
- c. The above RVs are each individual's primary place of residence and each RV is installed in a semi-permanent fashion. They are on blocks, may have wooden skirting or staircases, and have power and electricity hook-ups.
- d. Each of the above residents has remained continuously in Salmon Shores since the above stated time.
- e. Salmon Shores' lease agreement with Mr. Binkley indicates that the Manufactured/Mobile Home Landlord-Tenant Act will not apply if the "space is being rented for seasonal, transient rental, or recreational use." However, Mr. Binkley does not use the space for seasonal, transient rental, or recreational use; therefore, the lease indicates that the Manufactured/Mobile Home Landlord-Tenant Act applies.

3. Overcharging of Electricity

- a. Binkley signed a lease agreement that took effect on February 1, 2008.
- b. In February 2008, Binkley received an electric bill from Salmon Shores in the amount of \$104.22. The charge for electricity was \$104.16 and billed at a rate of \$.16 per KWH.
- c. In March 2008, Binkley received an electric bill from Salmon Shores in the amount of \$138. The charge for electricity was \$137.92 and billed at a rate of \$.16 per KWH.
- d. In April 2008, Binkley received an electric bill from Salmon Shores in the amount of \$130. The charge for electricity was \$29.92 and billed at a rate of \$.16 per KWH.
- e. Mr. Binkley paid and received a receipt for each of these bills.
- f. On April 4, Mr. Binkley was notified by letter by the Utilities and Transportation Commission that the authorized monthly billing rate for electricity for Salmon Shores was actually \$.079347 per KWH. This letter was also sent to Mr. Steve Young of Salmon Shores.
- g. In May 2008, Mr. Binkley remitted partial payment to Salmon Shores based upon his calculations of his electricity bills. He paid \$64.51 and received a receipt.
- h. Also in May 2008, Puget Sound Energy Tariff Consultant Lynn Logan contacted Mr. Steve Young and advised him that (1) it was against UTC regulations to sell electricity unless the seller is a utility and regulated by the UTC, (2) that the rate PSE charges Salmon Shores is the rate they may pass on to their tenants, and (3) that Salmon Shores can use the average rate for the year and bill the tenants who are not on a month-to-month lease agreement.
- i. Between May and October 2008, Mr. Binkley paid Salmon Shores for electricity based upon his calculations at the rate of \$.079347 per KWH. Salmon Shores, however, adjusted their billing rate to \$.09 per KWH. This billing rate has been

- determined not to be in compliance with the tariff agreement between Salmon Shores and Puget Sound Energy. Attachment 1 to this Notice tabulates the billing rate versus the amounts remitted by Mr. Binkley.
- j. The total difference between the legally billable rates of \$0.07937 per KWH for February 2008 through April 2008 and the legally billable rate for May 2008 through March 2009 and the amounts Mr. Binkley actually paid to Salmon Shores between February and October 2008 is \$122.55 (see Attachment 1 for details).
4. Lack of Compliance with Puget Sound Energy Tariff
- a. Salmon Shores was found not to be in compliance with their tariff agreement with Puget Sound Energy during the above stated timeframe.

Explanation of Violation

The Attorney General hereby finds as follows:

1. Violation (1)
 - a. RCW 59.20.070(6) states that "A landlord shall not:...Charge to any tenant a utility fee in excess of actual utility costs or intentionally cause termination or interruption of any tenant's utility services, including water, heat, electricity, or gas, except when an interruption of a reasonable duration is required to make necessary repairs."
 - b. Salmon Shores was notified by both the Utilities and Transportation Commission and Puget Sound Energy that it was charging for electricity at a greater rate than allowed by law and UTC regulation. Salmon Shores did not make immediate corrections to its billing practices.
 - c. Salmon Shores charged \$0.081 per KWH higher than allowed for February 2008 through March 2009.
 - d. This billing practice violates the express terms of RCW 59.20.070(6).
2. Violation (2)
 - a. RCW 59.20.130(1) states that "It shall be the duty of the landlord to:...Comply with codes, statutes, ordinances, and administrative rules applicable to the mobile home park."
 - b. By billing more than the allowed amount per KWH between February 2008 and March 2009, Salmon Shores violated WAC 480.100.108(5).

Corrective Action Required

Pursuant to RCW 59.30.040(5)(a), the Park shall:

Within **15 business days** after receipt of this notice unless a Request for Hearing letter is received by this office as described below:

- (1) Remit to Mr. Kenneth Binkley the amount of \$122.55.
- (2) Void the billing charges and late fees for utilities charged to Mr. Binkley from April 2008 until March 2009, stated to be in the amount of \$149.00 by Salmon Shores

Failure to Take Corrective Action

Pursuant to RCW 59.30.040(6), if corrective action is not taken in accordance with the above paragraph, the Park shall be subject to a fine of **\$100 per day** for the first 15 days, and **\$250 per day** thereafter. Additionally, the attorney general will issue an order requiring the park to take the necessary steps to ensure compliance with this Notice of Violation.

Appeal of this Notice

You may appeal this Notice, and any fines or orders resulting from it, by requesting a hearing before an Administrative Law Judge. Such a request ***must*** be made ***in writing*** to this office within ***15 business days*** of your receipt of this notice; otherwise this decision is final. This request must be mailed to: Attorney General of Washington, Manufactured Housing Dispute Resolution Program, 800 Fifth Avenue Suite 2000, Seattle, WA 98104-3188. Upon receipt of your request, this office will coordinate with the Office of Administrative Hearings to schedule a hearing. The Administrative Law Judge (ALJ) is authorized by statute to hear and receive pertinent evidence and testimony, and decide, by a preponderance of the evidence, whether a violation of the MHTLA has occurred. The ALJ's decision will constitute the final order of the Attorney General and may be appealed to Superior Court in accordance with instructions to be included in the ALJ's decision.

Signed this 11 *day of* March, 2010

Manufactured Housing Dispute Resolution Program

ROBERT M. MCKENNA

Attorney General



Cathie Caldwell
Program Manager

Attachment 1—Billing Rates and Total Paid by Mr. Binkley

MONTH 2008	KWHS	BILLED BY SALMON SHORES AT \$0.16 and \$.09	PAID BY BINKLEY AT \$0.079 or GREATER	DIFFERENCE BETWEEN AMOUNT PAID AND AMOUNT LEGALLY CHARGEABLE
FEBRUARY	651	@ \$0.16 \$104.16	\$104.16 @ \$0.16	\$52.73 @ \$.079
MARCH	862	@ \$0.16 \$137.92	\$137.92 @ \$0.16	\$69.82 @ \$.079
APRIL	812	@ \$0.16 \$129.92	\$64.51	\$0
MAY	534	@ \$0.09 \$48.06	\$42.91	0
JUNE	861	@ \$0.09 \$77.49	\$68.80	0
JULY	882	@ \$0.09 \$79.38	\$69.99	0
AUGUST	825	@ \$0.09 \$74.25	\$65.46	0
SEPTEMBER	822	@ \$0.09 \$73.98	\$65.22	0
OCTOBER	835	@ \$0.09 \$75.15	\$66.25	0
TOTAL				\$122.55