



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: OLC

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application for an Order requiring the Landlord to comply with the *Manufactured Home Park Tenancy Act (Act)*.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord via registered mail at the address noted on the Application, on November 27, 2008. A copy of the Canada Post Receipt, with a tracking number, was submitted as evidence. The Canada Post website shows the mail was delivered to the recipient on November 28, 2008. These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Landlord did not appear at the hearing.

Issue(s) to be Decided

The issue to be decided is whether the Tenant is entitled to an Order requiring the Landlord to have a yard light in a neighbouring yard moved to a different location.

Background and Evidence

The Tenant stated that the person residing in the manufactured home site next to his is the manager of the manufactured home park. He stated that the manager installed a yard light on his manufactured home park site approximately six months ago.

The Tenant submitted a photograph of the location of the yard light, which is a decorative pole lamp with three lights at the top. The photographs show that the lamp is very close to the manager's front stairs. The Tenant stated that the lamp is approximately sixteen feet from his manufactured home.

The Tenant stated that the lamp bothers him because it shines right into his living room window. He states that lights are very bright, although he does not know the wattage of the light bulbs. He states the light bulbs have recently been replaced with colored lights, which are very bothersome. He stated that the light is so bright that it shines right through his Venetian-style blinds.

The Tenant stated that the manager did not use the light when it was initially installed and that he has, therefore, just recently noticed that it bothers him. The Tenant stated that he did not discuss his concerns about the light with the manager. He stated that he sent a letter to the Landlord outlining his concerns with the light. A copy of letter to the Landlord, dated November 15, 2008, was submitted in evidence. In the letter the Tenant advised the Landlord that the light is bothersome because it shines into his living room window, which he considers harassment. At the hearing the Tenant stated that the Landlord viewed the lamp and advised him there was no problem with the location of the lamp.

The Tenant is seeking an Order requiring the Landlord to have the manager immediately stop using the lamp, and to move the lamp fifteen feet closer to the front of the manager's driveway. At the hearing the Tenant was unable to specify why he feels

the Landlord is not complying with the *Act*, although in his letter to the Landlord he indicated that he feels the placement of the lamp constitutes harassment.

Analysis

Section 62(3) of the *Act* authorizes me to make an order requiring the Landlord to comply with the *Act*, the regulations, or the tenancy agreement in circumstances where the Landlord is contravening the *Act*. In the circumstances before me, I find that the Tenant has submitted insufficient evidence to establish that the Landlord or the manager of the manufactured home park site is contravening the *Act*, therefore I find that I do not have the authority to make an Order requiring the Landlord to comply with the *Act*.

In reaching this conclusion I considered the following:

- The Tenant did not establish that the wattage in the bulbs of the lamp is sufficiently high to constitute an unreasonable disturbance of the Tenant's quiet enjoyment
- The lamp is designed for exterior residential use and is likely less bright than a typical street lamp, which is frequently located within sixteen feet of a residential, and would not normally be considered an unreasonable disturbance
- There is no evidence that the location of the lamp was selected with the intent of harassing or disturbing the Tenant
- The Tenant's statement that the light is so bright that it cannot be blocked out with curtains or blinds is not credible, a determination that I made after considering the nature of the lamp and viewing the photographs submitted that show the reflection of the light in the Tenant's window.
- The owner of the park, who has no vested interest in this specific dispute, has viewed the lamp and determined that the location was acceptable.

Conclusion

As I have not found that the location of the lamp contravenes the *Act*, I dismiss the Tenant's application for an Order requiring the Landlord to move the lamp.

Dated: December 16, 2008