



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, OLC, PSF, RP, O, FF

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution, seeking orders for monetary compensation under the Act or tenancy agreement, for the Landlord to comply with the Act or tenancy agreement, to make repairs to the rental unit or site, provide services required by law, for other relief and to recover the filing fee for the claim.

Both parties appeared, gave 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 oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Are the Tenants entitled to the relief sought?

Background and Evidence

The Tenants have made several claims against the Landlord, involving allegations that the Landlord is failing to enforce park rules. The Tenants claim that the Landlord has failed to protect their right to quiet enjoyment, by not evicting their neighbour, who lives on the site next door.

The Tenants claim their neighbour has threatened the Tenants' lives and manufactured home, that the neighbour is involved in the drug trade, that there are noise disturbances from this site at various times during the night and day, and that there are cars being parked inappropriately on this site and on other sites in the park. The Tenants also claim the neighbour works on cars in his driveway and and parks illegally on the lawn.

The Tenants further allege the Landlord has not enforced the requirement that all residents must have their homes insured. They also claim that there are visitors coming into the park at all times of the night, and that the noise from the neighbour and these visitors have caused them a loss of sleep and quiet enjoyment of their property.

The Tenants further claim that vehicles are exceeding the posted speed limit of 10 kph in the park, and that there are large dogs, such as pit bulls, that breach the pet size limits in the park rules.

The Tenants allege that the major problems started when the Landlord sold the manufactured home next to theirs to this neighbour. They allege the Landlord should have done a criminal record check on this resident, as well as other residents in the park.

The Tenants are claiming \$25,000.00 for these allegations, claiming they have lost significant value of their manufactured home as well as their loss of quiet enjoyment and other claims. In evidence of lost value for their home, they supplied a short email from their realtor.

In evidence of their other claims, the Tenants submitted photographs of various infractions around the park, such as junk being stored on home sites, a run down manufactured home with siding missing, a large dog running loose, cars being worked on in driveways and parked on the grass, and the entry sign with the quiet hours posted of 10 pm to 8 am, and the speed limit in the park. The Tenants have also supplied a copy of a recognizance of bail with a condition requiring their neighbour to have no contact with the Tenants.

In reply, the Agents for the Landlord claim the only complaints about the neighbour or other people and events in the park are coming from these Tenants. The Landlord acknowledged that they had given the neighbour of the Tenants a Notice to End Tenancy, however, they could not describe what type of Notice had been given.

The Agents for Landlord further testified that they are trying to run a friendly park, which attracts all kinds of people. The Agents testified they have no knowledge of activities related to the drug trade in the park. They continually asserted that these Tenants are the only ones complaining about the park or their neighbours. They claim the Tenants are constantly complaining about other people and events in the park.

Analysis

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find as follows:

I find that the Tenants have provided insufficient evidence to prove the loss of value in their manufactured home. A simple email from their realtor is not sufficient evidence. To prove such a claim the Tenants would have had to submit extensive evidence, such as a professional appraisal report, indicating such things as direct comparisons and characteristics of the sites and homes. They would also require evidence that normal market fluctuations are not the cause of the alleged decrease in value and that the loss of value is directly attributable to the Landlord's alleged breaches. Therefore, I dismiss this portion of their claim without leave to reapply.

I do find that the Tenants have proven that the Landlord is not adequately enforcing the park rules and has not taken sufficient action to investigate infractions or address the loss of quiet enjoyment of the Tenants. I find that the evidence of the Tenants supports their claim that they have had a loss of quiet enjoyment of their site.

The Landlord is required under section 22 of the Act to ensure that the Tenants and other residents of the park are not disturbed by unreasonable noise and activities.

Under section 26 of the Act the Landlord is also required to provide and maintain the park in a reasonable state of repair and to ensure all residents keep their homes and sites in a reasonable state of repair. For example, a home with large portions of siding falling off of it, is not in a reasonable state of repair.

Furthermore, the Landlord is required to enforce the rules of the park in accordance with the Act and regulations. The Landlord should also be aware there are provisions in the Act for establishment of a park committee which could help in governing the operation of the park.

From the evidence supplied by the Tenants, I find that they first complained about these problems to the Landlord, in writing, in October of 2009. Therefore, I find the Tenants have suffered a loss of quiet enjoyment for seven months, including April of 2010.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(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 order that the Tenants are entitled to \$1,050.00 in compensation from the Landlord, comprised of seven months of their \$300.00 monthly rent, reduced by 50%, for loss of quiet enjoyment.

As the Tenants have been only partially successful in their claims, I allow only a portion of their filing fee to be returned, in the amount of \$50.00. Therefore, the Landlord is ordered to pay the Tenants **\$1,100.00, which the Tenants may deduct from future rents.**

I also order the Landlord to distribute a copy of the park rules to all residents in the park.

The Landlord is also ordered to enforce the park rules, in accordance with the Act, regulations and the tenancy agreements in place, for all residents of the park.

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: April 07, 2010.

Dispute Resolution Officer