

DECISION

Dispute Codes OLC, PSF, FF, CNLC, MNDC

Introduction

The hearing of the Tenants' application for an Order that the Landlords provide services and facilities required by law was reconvened to today's date. In a decision issued on April 15, 2010, I ordered the Landlords to restore water to the Tenants' pad site immediately and further ordered the parties to provide additional information in order to determine whether the Landlords were deemed under the Drinking Water Protection Act to be operating a water supply system by supplying water to the manufactured home site and thereby required to install an engineered system as they alleged.

At the beginning of the hearing, the Tenants claimed that they moved out of their mobile home on the rental property on May 5, 2010 due to "harassment" by the Landlords. The Tenants said that although the Landlords were ordered to restore water to the manufactured home site on April 15, 2010, they failed to do so until April 26, 2009. Most recently, the Tenants said they received a copy of a letter drafted by counsel for the Landlords which was delivered to the former owner of the mobile home and that purportedly said that if the mobile home was not removed from the rental property the Landlords would forcibly remove it. Consequently, the Tenants said they no longer intend to *reside* on the manufactured home site and have had hydro and telephone services cancelled. The Tenants said that that they intend to leave their mobile home on the pad site until they can make arrangements to move it.

Counsel for the Landlords said that she was unaware of a threatening letter sent to the Tenants. Counsel for the Landlords also said that she asked Interior Health whether the Landlords required a permit to operate a water system as ordered and was advised that the Landlords would have to apply for a permit in order to make that determination. Counsel for the Landlords argued that since the Tenants moved out, there was no point in the Landlords making their application for a permit. The Tenants argued that the Landlords had no intention of making an application for a permit given that they were advised by a Health Officer in an e-mail to their counsel on April 23, 2010 to have the water supply tested to see if it was potable and to apply for the permit but had done neither of those things by May 5, 2010.

The Parties also advised me that the Landlords had also applied for Judicial Review of the decision I issued on February 17, 2010 regarding the issue of jurisdiction.

Given that the Tenants are no longer residing in the mobile home on the manufactured home site and have no intention of doing so, I find that the Tenants' application for an Order that the Landlords restore water to the manufactured home site is unnecessary and it is dismissed without leave to reapply. This decision is made, however, without prejudice to the Tenants' right to apply for compensation for the loss of this service or facility up to and including the date the tenancy actually ends.

Conclusion

The Tenants' application for an Order that the Landlords provide services and facilities required by law is dismissed without leave to reapply. The Tenants' application to recover the filing fee for this proceeding is dismissed without leave to reapply. The Tenants' application for compensation is dismissed with leave to reapply only in the event that the Residential Tenancy Branch retains jurisdiction of this matter following the Landlords' application for Judicial Review on that issue.

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 08, 2010.

Dispute Resolution Officer