

DECISION

Dispute Codes AAT, RP, RR, OLC

Introduction

This matter dealt with an application by the Tenant for an order allowing the Tenant to have access to the manufactured home site, for an order that the Landlord make repairs and for an order permitting the Tenant to deduct the cost of repairs from his rent.

The Tenant said he served the Landlord's park manager with a copy of the Application and Notice of Hearing in person on August 9, 2010. Based on the evidence of the Tenant, I find that the Landlord was served as required by s. 82 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Is a repair order necessary?
2. Is an Order required to allow the Tenant access to the manufactured home site?

Background and Evidence

This tenancy started approximately 4 years ago. The Tenant said approximately 1 and ½ years ago, his neighbour blocked off his access to one side of his manufactured home and manufactured home site by putting up gates that are situate on his and his neighbour's sites at the front and back . The Tenant said he objected to the gates and raised the issue a number of times with a former park manager but he would not do anything.

The Tenant said that his neighbour has locks on the gates so that he cannot gain access to that side of his mobile home unless he gets the consent of his neighbour to enter. The Tenant also said that the locked gates prevent him from making upgrades to that side of the mobile home, from gaining access to the water, cable and electrical outlets and would prevent him from using his emergency exit. Consequently, the Tenant sought an order requiring the Landlord to remove the gate from his manufactured home site so that he could have access to that part of the site.

The Tenant also claimed that a provision of the Park Rules states that each manufactured home park site is to have a buffer of at least 3 feet between the manufactured home and the site line on which it is situate so that there is access to the manufactured home. The Tenant did not provide a copy of the Park Rules as evidence at the hearing.



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Residential Tenancy Branch
Ministry of Housing and Social Development

Analysis

Section 22 of the Act says that a Tenant of a manufactured home site is entitled to quiet enjoyment which includes the right to **exclusive use** of the manufactured home site.

Section 26(1)(b) of the Act says that a Landlord must comply with housing, health and safety standards required by law. Section 27(1) of the Act requires the Landlord to make emergency repairs which are defined as “urgent, necessary for the health or safety of anyone or for the preservation or use of property in the manufactured home park and made for the purpose of repairing... (iv) a manufactured home site.

The Tenant sought an order requiring the Landlord to remove all of part of two gates that are on his manufactured home site and which block his use of part of the site and therefore his access to and from that part of the manufactured home. I find that the fences in question significantly breach of the Tenant’s right to quiet enjoyment or more specifically to his right to the exclusive use and occupation of the manufactured home site for which he pays rent. I also find that the gates pose a significant risk to the safety of the Tenant, other occupants and his property because they prevent him from having access to utility connections and block his emergency exit route from the manufactured home site.

For all of these reasons, **I ORDER pursuant to s. 55(3) of the Act that the Landlord remove that portion of the gates that are situate on the Tenant’s manufactured home site no later than October 8, 2010. If the Landlord does not do so, then I authorize the Tenant to do so and Order that he may deduct the amount of \$50.00 from his pad rent as compensation for having to do so. I further ORDER the Landlord to provide to the neighbouring tenant (who erected the gate) a copy of this Decision forthwith upon the Landlord’s receipt of it.**

Conclusion

The Tenant’s application is granted. The Landlord is ordered to comply with the Act upon the above-noted terms. 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: September 28, 2010.

Dispute Resolution Officer