



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OLC, ERP, RP, FF, O

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for an Order requiring the Landlord to comply with the *Manufactured Home Park Tenancy Act (Act)*, the *Manufactured Home Park Tenancy Regulation*, or the tenancy agreement; for an Order requiring the Landlord to make repairs to the unit, site, or property; for an Order requiring the Landlord to make emergency repairs for health or safety reasons; and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Prior to the hearing on October 25, 2010 a document, which was signed by an agent for the Landlord and the male Tenant and dated October 18, 2010, was submitted to the Residential Tenancy Branch. In the document both parties request that the hearing be adjourned.

The male and the female Tenant attended the hearing on October 25, 2010 at the scheduled start time. The male Tenant stated that he is hopeful that the Landlord will make all the necessary repairs to the manufactured home park without the need for a hearing and that he wished to adjourn the hearing to provide the Landlord with the opportunity to make those repairs. The Tenants were advised that the hearing would be adjourned on the basis of the written request for an adjournment that had been signed by both parties.

An Agent for the Landlord attended the hearing on October 25, 2010 after the Tenants had exited the teleconference. He was advised that the hearing would be adjourned on the basis of the written request for an adjournment that had been signed by both parties.

Both parties were advised that they would be advised of the time and date of the reconvened hearing and that they would be expected to attend at that time and date. The Tenant attended at the reconvened hearing but the Landlord did not. The reconvened hearing was conducted in the absence of the Landlord.

Both parties were provided with the opportunity to submit documentary evidence prior to this hearing. The Tenants were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

The issues to be decided are whether there is a need for an Order requiring the Landlord to make emergency repairs to the manufactured home park and/or an Order requiring the Landlord to make repairs to the manufactured home park, and whether the Tenant is entitled to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution, pursuant to section 26, 27, and 72(1) of the *Act*.

Background and Evidence

At the outset of the hearing the male Tenant stated that many of the repairs to the manufactured home park that the Tenants believed were necessary have been completed.

The male Tenant stated that the roads in the manufactured home park are still in need of repair. He stated that when the Tenants filed the Application for Dispute Resolution there were numerous large potholes in the road that constituted a safety hazard for pedestrians and could potentially damage vehicles. He stated that since the Application for Dispute Resolution was filed the roads have been excavated for the purposes of installing water pipes; that the roads are now primarily dirt; that in wet weather they become very muddy; that the roads still constitute a safety hazard for pedestrians when they are wet or icy; and that the roads need to be covered with gravel, compacted, and oiled.

The Tenants submitted no photographs of the current condition of the road, although the Tenant did submit photographs of the potholes in the road that existed prior to the excavation.

The Tenants submitted no evidence to establish the housing, health, and safety standards that have been established for roads.

The male Tenant stated that there is an abandoned building in the manufactured home park that he believes either needs to be repaired or removed. He stated that when the Tenants filed the Application for Dispute Resolution there was a large amount of vegetation around this building, which has now been removed.

The male Tenant stated that he believes the building still constitutes a safety hazard, as shingles and siding have been known to blow off the building in stormy weather, and because rodents occupy the building. He stated that the Landlord is slowly working on the building but that repairs have been sporadic.

The Tenants submitted photographs of the exterior and interior of the abandoned building, which the male Tenant stated is within the manufactured home park.

The Tenants submitted no evidence to establish that the building does not comply with housing, health, and safety standards.

Analysis

Section 27 of the *Act* defines an "emergency repair" as a repair that is urgent; and is necessary for the health or safety of anyone or for the preservation or use of property in the manufactured home park; and is made for the purpose of repairing major leaks in pipes, damaged or blocked water or sewer pipes, the electrical systems, or in prescribed circumstances, the manufactured home site or the manufactured home park.

In my view repairs to the surface of the road and to the abandoned building cannot be considered urgent, and I therefore dismiss the Tenants' application for an Order requiring the Landlord to make emergency repairs to the road in the manufactured home park.

Section 26 of the *Act* stipulates that a landlord must provide and maintain the manufactured home park in and reasonable state of repair and comply with housing, health, and safety standards required by law.

As the Tenants submitted no evidence that establish housing, health, or safety standards of roads in manufactured home parks, I am unable to determine whether or not the road(s) in this park do not comply with housing, health, and safety standards required by law.

I find that the Tenants have submitted insufficient evidence to cause me to conclude that the roads in the park are not currently being maintained in a reasonable state of repair. Although the male Tenant stated that he believes the condition of the roads constitute a safety hazard, I find this to be a subjective opinion and I cannot personally conclude that they are unsafe or being maintained in a manner that does not comply with the *Act*, without photographs or other documentary evidence that allows me to view the current condition of the road(s). On this basis, I dismiss the Tenants' application for an Order requiring the Landlord to repair the road.

In rendering this decision I have placed some weight on the condition of the road(s) prior to the roads being excavated, as demonstrated by the photographs that were submitted in evidence by the Tenants. While it is clear that the road is uneven, I cannot conclude that they constitute a significant safety hazard. I find that they are reasonably typical of an unpaved road in a rural setting and I cannot, therefore, conclude that the roads in this manufactured home park were not being maintained in a reasonable state of repair. Even if the road(s) had remained in the condition they were in when the Tenants filed this Application for Dispute Resolution it is highly unlikely I would have issued an Order requiring the Landlord to repair the roads.

As the Tenants submitted no evidence to establish that the abandoned building does not comply with housing, health, or safety standards of a structure not used for habitation, I am unable to determine whether the abandoned building complies with housing, health, and safety standards required by law.

I find that the Tenants have submitted insufficient evidence to cause me to conclude that the Landlord has failed to maintain the manufactured home park in a reasonable state of repair simply because there is an abandoned building in the park. In reaching this conclusion I was heavily influenced by the photographs submitted in evidence.

In my view the photographs depict a building that is in reasonable state of repair for a building that is not used for the purposes of human habitation. Although the roof of the building is missing some shingles at the rear of the building, the photographs do not, in my view, demonstrate that pieces of the building are likely to fall from the building in a manner that represents a significant safety hazard.

Although the building is clearly not in good repair, the evidence shows that the building is abandoned and is not used by occupants of the manufactured home park. I therefore cannot conclude that the occupants of the park are impacted by rodents living in the building. Rodents commonly live in uninhabited buildings, regardless of their state of repair, and I do not find that a landlord has an obligation to keep outbuildings free of rodents unless it can be clearly established that the rodents are impacting occupants of the park. Similarly, I cannot conclude that the occupants of the park are impacted by the disrepair of the interior of the building, as they do not have the right to enter the building.

On this basis, I dismiss the Tenants' application for an Order requiring the Landlord to repair the abandoned building.

Conclusion

I find that the Tenants have failed to establish that there is a need for an Order requiring the Landlord to take action in the manufactured home park. As the Tenants have failed to establish that their Application for Dispute Resolution has merit, I dismiss the Tenants' claim for compensation for the cost of filing this Application for Dispute Resolution.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 24, 2010.

Dispute Resolution Officer