



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, OLC, RP

Introduction

Some documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an order for the landlord to comply with the Manufactured Home Park Tenancy Act, and make repairs to the site. The applicant is also requesting recovery of his filing fee.

Background and Evidence

The applicant testified that:

- When he originally rented the manufactured home site there was a retaining wall between his site and the adjoining site.
- This retaining wall is approximately 6 feet high and is built in three tiers.
- The retaining wall is built out of landscape ties, however those landscape ties are now very rotten and the retaining wall is beginning to fail, and as a result portions of his manufactured home site are sloughing into the adjoining site.

- He is therefore requesting an order that the landlord do repairs to the manufactured home site to ensure that the site is stable and no further landslides occur.

The respondent testified that:

- The retaining wall between these two sites was originally built by a previous tenant and not by the landlords.
- It is their belief that this retaining wall is part of the tenants landscaping and therefore is the responsibility of the tenants.
- The tenants who originally built the retaining wall were given permission to build it at their own expense and agreed at that time there was a portion of their landscaping.
- Under the rental agreement the tenants are responsible for maintenance of their own lots and landscaping.
- He therefore does not believe that the landlords are responsible for maintenance and repair of this retaining wall.

Analysis

Section 26 of the residential tenancy act states:

26 (1) A landlord must

- (a) provide and maintain the manufactured home park in a reasonable state of repair, and
 - (b) comply with housing, health and safety standards required by law.
- (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the manufactured home site and in common areas.
- (3) A tenant must repair damage to the manufactured home site or common areas that is caused by the actions or neglect of the tenant or a person permitted in the manufactured home park by the tenant.
- (4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord is not required to maintain or repair improvements made to a manufactured home site by a tenant occupying the site, or the assignee of the tenant, unless the obligation to do so is a term of their tenancy agreement.

(6) A landlord's obligations under subsection (1) (b) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Therefore it is the landlord's responsibility to ensure that the manufactured home park is maintained in a reasonable state of repair, and the manufactured home sites are included in the definition of manufactured home park.

Therefore in this case although the original retaining wall was an improvement made by a previous tenant that was occupying the site, the landlord still has the responsibility to ensure the stability of the manufactured home sites, and therefore if the retaining wall that was previously installed by a tenant fails, the landlord must take steps to stabilize the property.

Conclusion

I have issued a repair order, and I further order that the landlord bear the \$50.00 cost of the filing fee paid by the tenant. The tenant may therefore make a one time deduction of \$50.00 from future rent payable to the landlord.

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, 2011.

Residential Tenancy Branch