



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC FF O

### Introduction

This hearing dealt with an application by the tenant for monetary compensation and other orders. The tenant and the landlord both participated in the teleconference hearing.

At the outset of the hearing, the landlord confirmed that he had received the tenant's application and evidence. The landlord did not submit any documentary evidence. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Preliminary Issue – Jurisdiction

During the hearing, the landlord stated that he is not bound by the *Manufactured Home Park Tenancy Act* (MHPTA) because the site is zoned for resort and campground use, and it started as a campground. The landlord did not provide any documentary evidence to support his claim that the tenancy agreement between the landlord and the tenant does not fall under the jurisdiction of the MHPTA. Further, the landlord has previously served the tenant with notices to end tenancy and filed an application for dispute resolution, seeking remedy under the MHPTA. I find that the MHPTA does apply to this tenancy and I do have jurisdiction to make a determination in this matter.

### Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

Should I order the landlord to take certain steps as requested by the tenant?

### Background and Evidence

The tenancy began on July 26, 1997. The tenant's current pad rent for the rental site is \$450.

The parties have been involved in two prior dispute resolution hearings. The first hearing convened on April 4, 2011, pursuant to an application by the tenant to dispute a rent increase and cancel a notice to end tenancy, as well as for emergency repairs, an order that the landlord provide services and facilities required by law, and for a reduction in rent. In that hearing, the tenant raised several issues including an argument that the landlord does not maintain the park to a suitable standard and a request for an order that the landlord repair the roadways in the park. These portions of the tenant's application were dismissed with leave to reapply.

The second hearing between the parties convened on April 13, 2012 pursuant to applications by the tenant and the landlord. The tenant applied for monetary compensation as well as an order for a reduction in rent. In his decision dated April 18, 2012, the arbitrator who had conduct of the hearing dismissed the tenant's application for a rent reduction and monetary compensation. In his decision, the arbitrator noted that "the tenant cited many examples of actions taken by the landlord that disturb or inconvenience him... the potholes will return before long... [the tenant is concerned about] the care and maintenance of the park [and] noise and dogs in the park."

### *Tenant's Claim*

The tenant claimed the following:

- 1) \$1237.50 for loss of quiet enjoyment for 11 weeks:
  - a. for three weeks during the spring of 2012, the landlord rented a bachelor suite right next to the tenant's house, and the occupants were constantly noisy, twenty-four hours a day, with noises such as slamming car doors and holding loud conversations right outside the tenant's window. The tenant stated that he complained to the landlord, but instead of telling them to keep it down, the landlord told the tenant that they were only staying for a few weeks;
  - b. for eight weeks during the summer of 2012, the tenant was disturbed by a new occupant of the rental suite beside him. The occupant had constant guests, and they made excessive noise often until late at night. The tenant stated that the neighbouring occupant or his guests would pee on the tenant's fence and throw garbage over the fence into the tenant's yard;

The tenant stated that he complained to the landlord three times, and the landlord did not remedy the situation;

- 2) \$112.50 for one week without water – the tenant stated that in the last week of July 2012, he had no water. When he complained to the landlord, the landlord stated that somebody was filling their swimming pool;
- 3) \$300 for vandalism to the tenant's vehicle – the tenant stated that the paint on his vehicle was scratched. The tenant believed that it was done by the neighbouring occupant;
- 4) unspecified compensation for ongoing problems in the park, including a lack of access to the lake, congregations of guests and dogs in the common areas and the hazardous unkempt state of the common areas;
- 5) a \$100 per month reduction in pad rent if current conditions are to continue;
- 6) transparency of the park's finances – the tenant stated that every rent increase notice that the landlord has served on the tenant has been illegal and fraudulent, and not in the prescribed manner;
- 7) a proper inspection of the park grounds – the tenant stated that the park is "nowhere near being up to the standards" set out in the MHPTA; and
- 8) an order to have an independent property manager appointed to take over the park business – the tenant stated that he will not deal directly with the park owner.

### *Landlord's Response*

The landlord acknowledged that "the teens are a little noisy in the summer," but the occupant next door to the tenant is not a nuisance. The tenant, on the other hand, is fighting with everyone, and threatened to kill someone's dog.

The landlord stated that there was low water pressure at the end of July 2012, not no water as the tenant claimed.

The landlord stated that the tenant had no proof of the damage to his vehicle or who caused the damage.

### Analysis

Upon consideration of the evidence, I find as follows:

- 1) Loss of quiet enjoyment – I accept the tenant's evidence that his quiet enjoyment was disturbed by occupants of the unit beside the tenant's house. The landlord acknowledged that there was at least some excessive noise in the summer.

However, I do not find that the tenant is entitled to the amount claimed. The tenant has claimed \$1237.50 or \$112.50 per week for 11 weeks; this amount represents 100 percent of the tenant's rent for that time period. The tenant pays rent for several amenities, not only for quiet enjoyment. Further, the tenant did not provide evidence other than his verbal testimony that these noise incidents occurred. I therefore find it is reasonable in the circumstances to grant the tenant compensation equivalent to 10 percent of his rent for 11 weeks, in the amount of \$123.75.

- 2) No water – the landlord acknowledged that the water pressure is low in the summer. I find that the tenant's evidence on this point is credible and it is more likely than not that the tenant had little or no water for one week in July 2012. I therefore find that the tenant is entitled to compensation for this item. However, I do not find that the tenant is entitled to 100 percent of his rent for that week; as noted above, rent is paid for several amenities. Further, the tenant did not provide evidence other than his verbal testimony that he had no water, rather than little water, for the week in question. I find it is reasonable to compensate the tenant 25 percent of his rent for the week, in the amount of \$28.13.
- 3) Car damage – the tenant did not provide evidence to establish who caused the damage to his vehicle, or what the damage was. If a tenant of the landlord was responsible for the damage, that person would be responsible for the cost of the damage, not the landlord. This matter is not a residential tenancy issue, and I therefore dismiss it.
- 4) Compensation for the condition of the park – the tenant did not claim a specific amount or present sufficient evidence to support this portion of his claim. Further, any claim for poor conditions in the park that occurred prior to the dispute resolution hearing on April 13, 2012 have previously been claimed or ought to have been claimed and are now *res judicata*. For these reasons I dismiss this portion of the tenant's claim.
- 5) Reduction in pad rent – as above under (4), I find that the tenant did not provide sufficient evidence to establish the current conditions in the park to support an order for a reduction in rent. The tenant only provided verbal testimony, which the landlord disputed. I therefore dismiss this portion of the tenant's application.
- 6) Transparency of the park's finances – I do not have jurisdiction to order the manner in which the landlord conducts business, except as regulated under the MHPTA. The landlord is not required to provide the tenant with information regarding the park's finances except when the landlord serves the tenant with a notice of rent increase. I therefore dismiss this portion of the tenant's application.
- 7) Inspection of the park grounds – as above in (6), I do not have jurisdiction under the MHPTA to order an inspection of the park grounds.

- 8) Independent property manager – as above in (6) and (7), I do not have jurisdiction under the MHPTA to order the method by which the landlord conducts business, except as regulated under the MHPTA. If the tenant does not wish to have direct dealings with the landlord, the tenant may need to appoint an agent to act on his behalf.

As the tenant's application was partially successful, I find he is entitled to partial recovery of his filing fee, in the amount of \$25.

### Conclusion

The tenant is entitled to a total monetary award of \$176.88. The tenant may deduct this amount from his next month's rent.

The remainder of the tenant's application is dismissed.

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

Dated: May 2, 2013

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Residential Tenancy Branch

