



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, O, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking an order to have the landlord comply with the *Manufactured Home Park Tenancy Act (Act)*, regulation, or tenancy agreement and a monetary order. The hearing was conducted via teleconference and was attended by the tenant, the landlord and two of his agents.

The tenant originally submitted an Application for Dispute Resolution seeking compensation for loss of quiet enjoyment on April 29, 2013. Then on May 3, 2013 the tenant submitted an amended Application to include an order to have the landlord comply with the *Act*, regulation or tenancy agreement and listing in the details of dispute "Non-compliance with Decision 801558".

At the outset of the hearing I sought clarification on what the tenant sought as a remedy to the non-compliance issue and despite repeated attempts at clarification the most I could determine the tenant sought was to have the landlord comply with the terms of the settlement agreement that was recorded in Decision 801558.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order seeking to have the landlord comply with a previous settlement agreement; to a monetary order for compensation for loss of quiet enjoyment; and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 22, 60, and 65 of the *Act*.

Background and Evidence

The parties agreed that during a previous hearing the parties reached a settlement agreement with 8 specific terms. Neither party provided a copy of the actual settlement agreement into evidence. The parties agreed that the terms were as follows:

1. The tenant agreed to not place a stop payment on a post dated rent cheque date for March in the amount of \$1,200.00;
2. The tenant agreed to pay \$350.00 to the landlord's agent by the middle of March 2013;
3. The tenant agreed to pay \$900.00 to the landlord's agent by March 30, 2013;
4. The tenant agreed to pay \$900.00 to the landlord's agent by April 30, 2013;
5. The parties agreed the landlord would receive an order of possession effective on May 2, 2013;
6. The landlord agrees the landlord will not enforce the order of possession if the tenant keeps the agreement and pays the landlord's agent rent of \$450.00 on May 1, 2013;
7. The landlord's agent agreed to act as the landlord's agent until April 30, 2013;
8. The parties agreed to withdraw their Applications.

The tenant submits that the landlord's agent refused to act as the agent in accordance with this settlement agreement by failing to come to pick up the payment required for April 30, 2013. The tenant also submits that the agent was trying to get the tenant to pay \$1,350.00 instead of \$900.00 as agreed upon in the above agreement.

The tenant submits that the \$450.00 mentioned in point 6 of the settlement agreement was already included in the \$900.00 to be paid by April 30, 2013 but that the agent was stating that they were different amounts and sought to collect both amounts.

The landlord's agent testified that despite not being able to attend the rental property to collect the amounts owed by the tenant it was the tenant's obligation to get the payment to the landlord and/or agent in accordance with the agreement. Their position is that it was not the landlord's or the landlord's agent's obligation to attend the rental property to collect the amounts owed.

The agent also testified that even though the exchange of the April 30, 2013 payment had not taken place on April 30, 2013 the tenant had indicated that he would be in the

agent's community the following week and that he would bring the payment. The parties agree that no payment was ever made to either the landlord or the landlord's agent for the amount of \$900.00 due on April 30, 2013 or \$450.00 due on May 1, 2013. The tenant contends, as noted above, no payment was due on May 1, 2013.

The tenant also seeks compensation in the amount of \$450.00 or the equivalent of 1 month's pad rental because for a week after a hearing between these two parties on April 22, 2013 the tenant began a campaign of disturbing the tenant.

The tenant submits the landlord arranged for someone to "weed eat" the area around his pad for 6 hours but that when he looked out the next day not one area had been trimmed. The tenant submits the intent of the landlord was to be a pest.

The tenant submits that later that evening the same fellow parked a truck with no mufflers outside the tenant's windows. The tenant submits that because this truck had been parked in the other tenant's yard for a year and that it was moved to this location immediately following the hearing it was a deliberate act on the part of the landlord to disturb the tenant.

Two days later the tenant submits that the same tenant awakened this tenant by "banging lawnmowers together on his front stoop." The tenant notes that this is one of the many complaints he has submitted previously.

The tenant also submits the landlord mowed his lawn with a tractor that is too big for the yard solely to disturb the tenant and the following day the neighbouring tenant mentioned above mowed the meadow for over 1½ hours when it should take just twenty minutes.

The tenant also submits that since the last hearing his tires have been sprayed by a wandering dog and muddy cat prints were found on the hood and windshield of his car after washing it.

In addition the tenant submits that the landlord coerced his paper delivery person to stop delivering papers to the tenant and that his witness, the editor of the local paper, could confirm that the delivery person had confessed to him that the landlord had coerced her. The witness was called but was not available.

The landlord submits that there was no intention to disturb the tenant but that the grass needed cutting and that there were no deliberate acts taken to disturb the tenant in any

other ways. The landlord testified that he had a letter from the paper delivery person, but I did not allow the landlord to read the letter into evidence.

Analysis

In regard to the tenant's issue of the landlord's non-compliance with the settlement agreement, I find the tenant has failed to provide any evidence that the landlord did fail to comply with the agreement.

The agreement stipulated the tenant had obligations to make certain payments and that the agent would act as agent until April 30, 2013. Acting as the landlord's agent does not mean the agent must go to the tenant's rental unit to collect the payments but rather that the agent will be the one the tenant must ensure payment is provided to.

In the case before me and based primarily in the tenant's testimony and regardless of the inability of the tenant and the landlord's agent to meet on April 30, 2013 or May 1, 2013 to the date of the hearing the tenant had not paid either the \$900.00 payment required by April 30, 2013 or the \$450.00 due on May 1, 2013.

As to the tenant's assertion that the landlord's agent was attempting to collect \$450.00 more than what the settlement agreement stipulated, I find that since the tenant failed to provide a copy of the agreement with the precise wording of the agreement, as evidence, I have no ability to determine if there is a discrepancy in the amount agreed to be paid by the tenant and the amount the tenant now believes he should be responsible to pay.

For these reasons, I find the only party not in compliance with the settlement agreement is the tenant.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

As to the tenant's claim for compensation I find despite making assertions that the landlord's actions of yard maintenance and grass cutting were deliberate attempts by

the landlord to disturb the tenant, the tenant has failed to provide any evidence that this work was done as anything other than required maintenance.

I also find the tenant has failed to provide any evidence that the actions of another tenant (parking his truck and “banging lawnmowers together”) were done so at the request of the landlord or were intended specifically to disturb the tenant.

In relation to the tenant’s claim regarding his paper delivery person, I again find the tenant has failed to provide any evidence or corroborating testimony to confirm that these events occurred. As such, I find the tenant has failed to establish that he has suffered a loss or that if he did suffer a loss that it resulted from a violation of the *Act*, regulation or tenancy agreement.

I also note that the tenant’s claim is for the equivalent of 1 month’s pad rental and yet by his own testimony the disturbances occurred over the course of 1 week. The tenant has provided no explanation as to why the compensation should be for a full month’s rental. As such, I find the tenant has failed to establish the value of any possible loss.

Conclusion

For the reasons noted above, I dismiss the tenant's Application in its entirety.

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: June 04, 2013

Residential Tenancy Branch

