



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Town & Country Motel/RV Park
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, RR, FF, O

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the Landlord to comply with the Act - Section 55;
2. An Order for a rent reduction – Section 58; and
3. An Order to recover the filing fee for this application - Section 65.

I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution and notice of hearing in person on March 14, 2014 in accordance with Section 89 of the Act. The Landlord did not attend the Hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

It is noted that approximately 10 minutes after the hearing commenced, a third call came in however the person on this call did not identify themselves and very shortly disconnected. A third party then called in and identified themselves as the tenant causing the noise problems and stated that the Landlord told the tenant to call into the conference however this person did not know what they were supposed to do. It was determined that the Landlord was not with this tenant on the line so this tenant was asked to leave the hearing until the Landlord appeared. As the Landlord did not appear within another 3 minutes and the Tenant had provided all his evidence, the hearing was ended.

Issue(s) to be Decided

Is the Tenant entitled to an order for the Landlord's compliance?

Is the Tenant entitled to a rent reduction?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on September 19, 1990. Pad rent of \$500.00 is payable monthly on the first day of each month.

On December 1, 2012 a tenant moved into the unit beside the Tenant's unit and from that point on, radio and renovation noise has repeatedly carried on from this tenant starting usually from around 6:00 p.m. to 4:00 or 5:00 a.m. The Tenant provided dates of each of the disturbances that the Tenant believes have gotten worse more recently. The Tenant spoke to the Landlord several times about the noise and disturbances however it has continued. The Tenant wants the noise to stop at reasonable times and indicates that the local noise bylaw regulates noise after 10:00 pm. The Tenant has lost peaceful enjoyment of his unit and has lost sleep which has impacted his work. The Tenant requests a rent reduction of \$100.00 per month until the noise stops during the late night and early morning hours.

Analysis

Section 22 of the Act provides that a tenant is entitled to quiet enjoyment including, but not limited to, a right to freedom from unreasonable disturbance. Section 55 of the Act provides that any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement may be made. Section 58 of the Act provides that if a landlord has not complied with the Act, the regulations or a tenancy agreement, an order may be made to reduce past or future rent by an amount that is equivalent to a reduction in the value of a tenancy agreement.

Based on the undisputed evidence of the Tenant I find that the Tenant has substantiated a longstanding and frequent breach of his quiet enjoyment of the unit and that the Landlord has negligently failed to provide the Tenants with freedom from an unreasonable disturbance. As a result, and noting that the month of April has just commenced, I find that the Tenant is entitled to a rent reduction of **\$100.00** for April 2014. The Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$150.00**. This amount is to be withheld from the May 2014 rent payable.

Should the Landlord fail to act by April 30, 2014 the Tenant is also entitled to a rent reduction of an additional **\$100.00** for May 2014 and for each month thereafter that the Landlord fails to act during the preceding month, until one of two events occur:

1. The Parties mutually agree that the matter is resolved; or
2. The Landlord makes an application and obtains a decision that the matter is resolved.

Conclusion

I order the Tenant to reduce rent payable for May 2014 by \$150.00 and thereafter as set out above.

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: April 11, 2014

Residential Tenancy Branch

