



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PROSPERA INTERNATIONAL REALTY INCORPORATED
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes:

RP, ERP, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant seeking an order to force the landlord to complete repairs to the pad site where their manufactured home is situated in compliance with the Act.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Issue(s) to be Decided

Is the tenant entitled to an order to force the landlord to complete repairs to the site?

Background and Evidence

The tenancy began approximately 20 years ago and the current pad rent is \$301.69 per month. The tenant testified that in 2008 there was massive flooding of the site that disturbed the ground levels and resulted in rocks and debris deposited in the tenant's back yard. The tenant testified that there was damage to the trees caused by the flood and by the landlord's installation of a new hydro pole. The tenant pointed out that a hydro pole, large tree trunks and wires remain on the site. The tenant testified that they have not been able to use or even maintain this area of the site since 2008, because it is hazardous and unmanageable because of the debris and deposits.

According to the tenant, they have approached the landlord repeatedly seeking repairs and landscaping to restore the area but have not been successful as the landlord has taken the position that this restoration would be the tenant's responsibility.

The tenant is of the opinion that it is the landlord's responsibility to provide a site that is safe and usable and is requesting an order to force the landlord to restore the pad site to its original condition.

Analysis

I find that, under sections 6 and 51 of the Act, an arbitrator is authorized to make determinations and orders to enforce both the Act and the tenancy agreement.

In regard to the tenant's request for emergency repairs, I find that the restoration of the backyard does not qualify as an emergency as defined under section 27 of the Act, particularly as this problem has existed since 2008.

However, I find that section 26(1) of the Act provides that a landlord must provide and maintain residential property in a reasonable state of repair, and comply with housing, health and safety standards.

Section 26(2)(b) of the Act does require the tenant to maintain reasonable health and cleanliness and also to repair damage to the manufactured home site or common areas *caused by the actions or neglect of the tenant*. (My emphasis)

In this instance, I find that the landlord is required, under section 26 of the Manufactured Home Park Tenancy Act, to respond to complaints and complete repairs to infrastructure matters, such as damage to the property that was not caused by the tenant, particularly because the matter may pertain to a health or safety hazard.

Accordingly, I hereby order that the landlord:

- Engage a qualified contractor with the knowledge and equipment to safely restore the site by removing all debris and fallen trees and by levelling the ground to permit a lawn to be planted and maintained by the tenant afterwards.
- Complete this restoration process by the end of September 2014.

This order must be served on the landlord by the tenant. Should the landlord fail to comply with the order, the tenant is at liberty to make an application for dispute resolution seeking further remedies.

As the tenant's application is successful, I find that the tenant is entitled to be reimbursed the cost of the application. I hereby order that the tenant is entitled to deduct \$50.00 from the next rent owed as a one-time deduction.

Conclusion

The tenant is partly successful in the application as the landlord is ordered to engage qualified contractors to assess the electrical system and to share the written report with the tenant. The remainder of the tenant's application, including the monetary claim, is dismissed with leave to reapply.

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: August 13, 2014

Residential Tenancy Branch

