



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CRYSTAL RIVER COURT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

RP, O, OLC, and FF

### Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied for an Order requiring the Landlord to make repairs to the rental unit; for an Order requiring the Landlord to comply with the *Manufactured Home Park Tenancy Act (Act)* or the tenancy agreement; for "other"; and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

On September 05, 2014 the Tenant submitted Canada Post receipts to the Residential Tenancy Branch, which were not served to the Landlord. As they were not served to the Landlord, they were not accepted as evidence for these proceedings.

On September 08, 2014 the Tenant submitted numerous documents to the Residential Tenancy Branch, which the Tenant wishes to rely upon as evidence. The Tenant stated that these documents were sent to the Landlord by registered mail on September 05, 2014. The Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

On October 06, 2014 the Landlord submitted numerous documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Landlord stated that these documents were sent to the Tenant by registered mail. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

On October 06, 2014 the Tenant submitted documents and digital evidence to the Residential Tenancy Branch, which the Tenant wishes to rely upon as evidence. The Tenant stated that these documents were served to the Landlord by registered mail on

October 03, 2014. The Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

On October 07, 2014 the Tenant submitted Canada Post receipts to the Residential Tenancy Branch, which were not served to the Landlord. As they were not served to the Landlord, they were not accepted as evidence for these proceedings.

### Issue(s) to be Decided

Is there a need to issue an Order requiring the Landlord to make repairs to the rental unit or to comply with the *Act* or the tenancy agreement?

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began in 2010, at which time the Tenant was provided with a copy of the park rules.

At the hearing the Tenant stated that she is seeking an order requiring the Landlord to replace the fence that was removed between her site and a neighbour's site. Although this is not entirely clear from the information on the Application for Dispute Resolution, the Landlord indicated he was prepared to respond to this issue at these proceedings.

The Landlord and the Tenant agree that the Landlord removed the fence in July of 2014 and it has not yet been replaced. The Landlord stated that he plans to replace the fence but he was waiting until this hearing before he proceeded. The Landlord stated that he is willing to either erect a fence in that location or plant 6 foot cedar trees, spaced approximately every 2.5 feet. The Tenant stated that she prefers the trees to the fence.

At the hearing the Tenant stated that she is seeking an order requiring the Landlord to stop asking her to replace her windows. Although this is not entirely clear from the information on the Application for Dispute Resolution, the Landlord indicated he was prepared to respond to this issue at these proceedings.

The Landlord stated that the park rules were amended in 2012 to include a rule that requires all windows to be double glazed with matching vinyl frames in white or off white colour. The Landlord stated that the Tenant was provided with a copy of the new rules in 2013. The Tenant stated that she did not get a copy of the new rules in 2013. The Landlord and the Tenant agree that the Tenant was provided with a copy of the new rules in 2014.

The Tenant stated that she does not wish to comply with this new rule because it is expensive to replace her windows; all of her existing windows are double glazed windows with aluminum frames; and her windows are in good condition and do not need to be replaced. The Landlord stated that he believes some of the Tenant's windows are only single paned windows.

The Landlord stated that the rule was imposed because these windows improve the appearances of the homes in the park, which improves the overall appearance of the manufactured home park.

The Landlord and the Tenant both submitted photographs of the windows in the Tenant's manufactured home.

At the hearing the Tenant stated that she is seeking an order requiring the Landlord to stop making the replacement of her windows a requirement for the sale of her unit. Although this is not entirely clear from the information on the Application for Dispute Resolution, the Landlord indicated he was prepared to respond to this issue at these proceedings.

The Landlord and the Tenant agree that when this tenancy began there was a park rule that required a tenant to obtain written approval from the management to sell their manufactured home, which may be granted if the tenant corrects "a list of deficiencies" with the manufactured home, including issues relating to the yard, fencing, additions, improvements, steps, skirting, parking area, landscaping, etc.

The Landlord stated that the aforementioned rule was amended to read that the tenant will be required to correct "a list of deficiencies or upgrades", including issues relating to the yard, fencing, additions, improvements (including windows, siding, roofing, etc.), steps, skirting, parking area, landscaping, etc. The Landlord and the Tenant agree that the Tenant was provided with a copy of the new rules in 2014.

### Analysis

Section 21 of the *Act* stipulates that a landlord must not terminate a service or facility unless the rent is reduced must not terminate or restrict a service or facility by an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility. I find that this section of the *Act* applies to the fence that was in place at the start of the tenancy. As the Landlord did not reduce the rent after the fence was removed, I find that the Landlord is obligated to replace the fence or install a barrier that is similar to a fence.

As the Landlord indicated he is willing to replace the fence or to plant cedar trees and the Tenant indicated that she prefers cedar trees, I order the Landlord to plant cedar trees along the old fence line. The cedar trees must be approximately six feet in height and spaced approximately every 2.5 feet, and they must be planted prior to the end of 2014.

Section 30 of the *Act* authorizes a landlord to establish a park rule if the rule is reasonable in the circumstances and it protects and preserves the condition of the manufactured home park or the landlord's property. I find that the rule requiring tenants to replace windows with double glazed windows is not reasonable.

In determining that the requirement for double glazed windows is not reasonable I find that although double glazed windows are more energy efficient and are beneficial to the homeowner, I cannot conclude that they have any significant impact on the condition of the manufactured home park or the Landlord's property, given that the Landlord does not pay to heat the manufactured home.

In determining that the requirement to install vinyl framed windows is not reasonable, I was heavily influenced by the photographs submitted in evidence. I find that these photographs show that the windows in the Tenant's manufactured home are in relatively good condition. While it may be reasonable to require tenants to maintain their windows in good condition and that only vinyl windows can be installed when windows are replaced, I find it unreasonable for the Landlord to require a tenant to replace windows that appear to be in good condition simply to improve the aesthetics of the park.

I find the rule to be unreasonable, in part, because the rule imposes a financial hardship on tenants that vastly outweighs the aesthetic benefits.

Given that I have determined that it is not reasonable for the Landlord to require a tenant to replace all windows with double glazed, vinyl framed windows, I find that any rule that requires a tenant to install vinyl framed windows before approval to sell will be granted is equally unreasonable. While I find it reasonable for the Landlord to require a tenant to replace broken or damaged windows with vinyl framed windows before approval for sale is granted, I simply do not find it reasonable for the Landlord to require a tenant to replace windows that are in good working order.

I find that the Tenant's Application for Dispute Resolution has merit and that the Tenant is entitled to compensation, in the amount of \$50.00, for filing this Application for Dispute Resolution.

### Conclusion

I order the Landlord to refrain from asking the Tenant to replace the windows in her manufactured home and from withholding consent to sell the rental unit on the basis of the windows, until such time as her windows fall into disrepair.

I authorize the Tenant to deduct \$50.00 from one monthly rent payment as compensation for the fee paid to file this Application for Dispute Resolution.

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

Dated: October 29, 2014

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Residential Tenancy Branch

