



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SINTICH TRAILER PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, ER, FF

Introduction

The tenants apply for an order directing the landlord to remove five dead trees alleged to pose a danger to the tenants' manufactured home.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the tenants are entitled to the relief requested?

Background and Evidence

The tenants' manufactured home site is in an 85 unit manufactured home park. The tenancy started in April 2011.

According to the tenant Mr. W. it had been agreed with the landlord right from the start of the tenancy that five trees adjacent to the tenants' manufactured home would be removed and the landlord has failed to do so. In Mr. W.'s view any one of the trees could topple over onto his home.

It is not disputed that the trees are dead. Indeed, the landlord's workmen have wrapped survey tape around each, indicating that they are to be removed.

The landlord's representative Ms. P. testifies that there are a great number of trees in the park that pose a danger and that they have been slated for removal over period of time, as money permits and according to the landlord's contractor's determination of which are most dangerous. She could not say when the tenants' trees will be removed.

Ms. P. also testified that an employee of the landlord attended at the premises in September to remove at least one tree, but was sent away by the tenant Mr. W.. Mr. W. responded that he had questioned the employee about the efficacy of removing the tree by pulling it over with a rope or chain connected to a backhoe on a muddy day.

Analysis

This decision was rendered orally after the hearing.

The tenants have not satisfied me that the five trees in question pose an immediate risk to the tenants' property or safety. To reach such a conclusion, the expert opinion of an arborist or similarly qualified person would be required.

Without that evidence it cannot be said the landlord's plan for removal is unreasonable.

I therefore dismiss the tenants' claim for a repair order or emergency repair order. However, should the tenants obtain the opinion of an expert as aforesaid, indicating that immediate removal is required or recommended, I grant the tenants leave to re-apply if the landlord fails to adhere to such a report.

Conclusion

The application is dismissed with leave to re-apply, qualified as stated 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: November 13, 2014

Residential Tenancy Branch

