



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Lombardy Management Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      DRI, MNDC, RR, CNC

### Introduction

This hearing dealt with an application by the tenant for orders setting aside a 1 Month Notice to End Tenancy for Cause; setting aside a rent increase; granting the tenant a monetary order; and allowing the tenant to reduce the rent for repairs, services or facilities agreed upon but not provided. Both parties appeared and had an opportunity to be heard.

### Preliminary Matters

At the beginning of the hearing the landlord advised that the 1 Month Notice to End Tenancy for Cause had been left blank intentionally and was just intended to advise the tenant of the grounds upon which a tenancy could be ended. Further, the landlord advised that it had no intention of ending the tenancy at this time.

In the course of the hearing the landlord made some undertakings which satisfied some of the tenant's concerns:

- If the tenant advises the landlord that the top soil currently located at site 103 is suitable, they will deliver sufficient soil to level out the front yard by December 31, 2014.
- The landlord will deliver and spread up to two cubic yards of material to repair the tenant's driveway by December 31, 2014. The parties agreed that I would specify the material to be used.

The landlord explained that they cannot build a platform by the garbage bins as requested by the tenant because it would interfere with the operation of the loaders that empty the bins. The tenant accepted this explanation.

### Remaining Issue(s) to be Decided

- Is the Notice of Rent Increase dated November 5, 2014 valid?
- Is the tenant entitled to any monetary compensation for repairs, services or facilities agreed upon but not delivered?

Background and Evidence

The rental unit is a lot in a manufactured home park. The tenant owns her own manufactured home. The tenancy started about 27 years ago. There was a written tenancy agreement but no one can find a copy. The current rent is \$290.00 per month and is due on the first day of the month.

There are 110 lots in this park; only 76 of which are rented. The current owners bought this park in the past few years. Since purchasing this property the landlord has replaced all the water and sewer lines in the park. It is acknowledged that the old lines were at the end of their useful life. One of the features of the new water lines is that each lot now has an individual shut off valve. The landlord says the cost of this work was in excess of \$500,000.00.

Prior to the water and sewer lines being replaced the roads within the park were paved. After the construction the roads have been gravel. The landlord says it cannot afford to pave the roads.

The tenant acknowledges that the cost of paving may be too high for the landlord but argues that the landlord has not laid down a high enough quality of gravel and does not properly maintain the roads. She contends that the roads are muddy, rutted, and too slippery in the winter.

The landlord testified that on October 8, 9 and 10 the roads were re-gravelled with "road base" as part of its planned maintenance. The tenant acknowledges that new material was laid on the roads but says it is more dirt than gravel and did not solve the problem.

The tenant says the park is much dustier because the roads are not longer paved and the landlord has not treated the roads to minimize the dust. The park manager, who is also a park resident, says the situation has not changed over the years and that dust is a fact of life in this community.

The recent history of rent increases in this park is as follows:

- 2007 - \$10.00 per month
- 2008 – No increase
- 2009 – No increase
- 2010 - \$10.00 per month
- 2011 – No increase
- 2012 – No increase
- 2013 – No increase
- 2014 - \$10.00

The landlord served the tenant with a Notice of Rent Increase dated September 26, 2014. It is acknowledged by all parties that this notice was not properly completed and is invalid.

The landlord served the tenant with a new notice of rent increase dated November 5, 2014. The notice states that effective March 1, 2015 the rent will be increased by \$16.00 per month to \$316.00. There was nothing attached to the notice given to the tenant.

### Analysis

There are some problems with the Notice of Rent Increase dated November 5, 2014. The first is that if a landlord is seeking to pass on a proportional amount of the change in local government levies and regulated utility fees, as is allowed by the legislation, the landlord must, in addition to completing the detailed calculation in Part D of the form, also attach a copy of the appropriate tax notices and invoices for the local government levies. This direction is set out twice in Part D of the Notice and again on page 6 of the Instructions that form part of that notice. As a result of the landlord's failure to attach the required documents to the Notice of Rent Increase, the notice is invalid. The landlord will have to prepare and serve a new notice.

The Notice of Rent Increase form refers landlords and tenants to some sources of information about the applicable law on rent increases. In addition, I would also direct the parties to *Residential Tenancy Policy Guideline 37: Rent Increases*, which is available on-line at the Residential Tenancy Branch website.

Regarding the tenants claim for monetary compensation, including a rent reduction, the only evidence I have is the contradictory statements from the landlord and the tenant about the condition of the roads and photographs of the tenant's residence. Every applicant is required to prove their claim on a balance of probabilities and the tenant's evidence does not meet that standard. The tenant's claim for monetary compensation is dismissed.

### Conclusion

- a. The landlord is ordered to make the following repairs to the tenant's lot on or before December 31, 2014:
  - o If the tenant advises the landlord that the top soil currently located at site 103 is suitable, the landlord is to deliver sufficient soil from that lot to level out the tenant's front yard.
  - o The landlord is to deliver and spread up to two cubic yards of 3/4" crushed gravel to repair the tenant's driveway by December 31, 2014.

If the landlord does not make the repairs as set out above the tenant may apply to the Residential Tenancy Branch for monetary compensation for the landlord's failure to make the repairs as promised.

- b. The Notice of Rent Increase dated November 5, 2014 is set aside. The landlord must prepare and serve a new Notice of Rent Increase on the tenant.
- c. The tenant's claim for monetary compensation, including a rent reduction, is dismissed.

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 25, 2014

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Residential Tenancy Branch

