



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Golden Designers Choice Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, RP, PSF, FF

Introduction

This hearing was convened by way of conference call concerning applications made by 3 tenants, referred to as SEB, TLH and MG respecting 3 different tenancies which have been joined to be heard together. All tenants have applied for an order that the landlord comply with the *Act*, regulation or tenancy agreement; for an order that the landlord make repairs to the units, site or properties; for an order that the landlord provide services or facilities required by law; and to recover the filing fees from the landlords for the cost of the applications. During the course of the hearing, one of the tenants, MG withdrew the application, and therefore, that application is dismissed.

The remaining 2 tenants attended the hearing, gave affirmed testimony and one was accompanied by a spouse who did not testify or take part in the hearing. The named landlord also attended and represented the landlord company. The landlord also gave affirmed testimony. The tenants provided evidentiary material to the Residential Tenancy Branch, including photographs, but did not provide it to the landlord. Therefore, I cannot consider any of it. The landlord provided evidentiary material to the tenants and to the Residential Tenancy Branch all of which is considered in this Decision.

Issue(s) to be Decided

- Have the tenants established that the landlords should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically with respect to repairs and improvements on the rental property?
- Should the landlord be ordered to make repairs to the units, site or properties?
- Should the landlord be ordered to provide facilities required by law?

Background and Evidence

The first tenant (SEB) testified that this month-to-month tenancy began sometime in December, 2013 and the tenant still resides in the rental unit. Rent in the amount of \$850.00 per month is payable in advance on the 1st day of each month and there are no rental arrears. A copy of the tenancy agreement has been provided. The landlord did not collect a security deposit or a pet damage deposit from the tenant. The tenant's rental unit is a manufactured home.

The tenant further testified that some of the tenants got together and discussed the condition of the rental property and decided it was not up to legal standards, largely because the tenant's dog got a lot of burrs, and another tenant had been picking up garbage on the property. The tenants asked the landlord to meet with them, but the landlord did not want to meet collectively or be ganged up on, but agreed to meet the tenants individually. The tenant waited for the landlord to advise when, but has not heard back.

The tenant further testified that it took the landlord a full 2 months to have the tenant's phone fixed – in part it was because it hadn't been installed incorrectly in the first place, but wasn't done yet at the time the tenant made the application for dispute resolution. It cost the tenant significantly more for the cell phone bill and the landlord refused to talk about it.

The tenant testified that the tenants are asking for repairs inside the trailers, however the tenant's has been done, but the landlord has left the tenants wanting the property cleaned up, such as cleaning up garbage off the ground, cleaning up the weeds, and the garbage dump area. The area is full of old appliances, a crib, a stroller, 2 fridges with doors attached, and other discarded stuff from trailers piled up.

The second tenant (TLH) testified that the month-to-month tenancy in her unit began in mid-July, 2014 and the tenant still resides in that rental unit. Rent in the amount of \$400.00 per month is payable, and there are no rental arrears. There is no written tenancy agreement, and the tenant did not pay a security deposit or a pet damage deposit.

The tenant further testified that there has been no attempt by the landlord to complete any repairs. When the tenant moved in, she had to clean thoroughly. The floors in the hallway are ripped up and a big chunk is missing and reveals ply-wood. There are holes in the walls including a huge one in the hall by the furnace. The bedroom and bathroom doors are broken, and have holes or the doorknobs are completely fallen off.

The manufactured home needs to be painted because they have been written on with permanent marker and can't be cleaned. There was no toilet seat and the tenant had to buy one. The dryer had no vent, but the landlord had it put on about 3 months after the tenant moved in. A corner of the bathroom sink is broken and there's red tape holding it together; the fan in bathroom is open – there's no cover so when it rains hard water leaks onto the toilet. There are no closet doors and the main door has no weather stripping revealing a huge crack between the door and the frame large enough to put a finger in and the snow blows in. The tenant keeps a blanket over it to keep the cold out. The fuel also ran out and the tenant had none for 2 weeks before the landlord filled it. The tenant even offered to do the painting and whatever else the tenant could do if the landlord bought the supplies, but nothing has been done except the dryer vent. The tenant talked to the landlord but he kept saying he'd get around to it.

The landlord testified that the second tenant called the landlord in mid-July asking for a place to live; she was getting out of an abusive situation involving police and needed a place to stay. The landlord told the tenant that the only place he had was a double-wide mobile home and that he didn't have time to clean it but she could move in. Due to the time constraints the landlord didn't complete a tenancy agreement. The tenant was informed that he was aware of the repairs and cleaning required due to the state it was left by previous tenants. The linoleum is torn up but the tenant's move-in was an emergency situation, and there has been little discussion about repairs.

The tenant had told the landlord at the outset that she didn't want expensive rent and a tenancy agreement wasn't completed so now the parties have a dispute about how much the rent is. The landlord understood rent had been agreed on \$300.00 every 2 weeks, or \$600.00 per month. The landlord had it rented previously for a year at \$1,000.00 for a month. Electricity and propane are included. He testified that the parties both expected that the residency there was temporary and the landlord had another coming available at the end of July. That tenant had given notice to move out but didn't vacate until the end of October. However, the landlord had another available in mid-September, which the landlord offered to the tenant for \$800.00 per month but the tenant declined.

The landlord further testified that every home in the complex is rented for more than \$400.00 per month. This unit is the only double-wide manufactured home, the biggest home and the most expensive to heat, costing about \$500.00 per month to heat. There was no agreement for \$400.00 per month, but \$300.00 every 2 weeks and the tenancy would end. The tenant says it's \$400.00 per month because that's how much money she gave the landlord which the landlord took as a partial payment, and referred to a receipt dated August 23, 2014, but testified that the tenant is using it as a precedent.

He testified that it is reasonable to assume that the landlord wouldn't rent it for \$400.00 per month because the earlier tenant paid \$1,000.00 per month.

The landlord further testified that there are no by-laws applicable because the property is not in town, and approvals that had to be obtained were electricity and sewage and permits were obtained. With respect to the garbage dump the landlord testified that he keeps appliances for parts and are of value to him. When he wants to get rid of them, he will. He has a large dumpster emptied every week which is separate from the appliances and they pose no health hazard.

The landlord further testified that repairs would have been done if the tenant hadn't moved in because she would have moved into another unit. The landlord never expected her to be living there this long. The landlord is prepared to fix the plywood floor and weather stripping, but some stuff he has heard about for the first time at this hearing. The dryer vent was there for 4 years and when the tenant told the landlord that it came off it was fixed within 2 days. The landlord has also provided a submission showing the repairs made which are significant and submits that it doesn't suggest that tenants are treated with contempt but illustrates that the landlord attempts to keep homes in reasonable repair. The landlord has good faith discussions with tenants and repairs get done, as stated by the first tenant. The only repair that the second tenant has asked for was the dryer vent, and the tenant never asked before this hearing about flooring.

Analysis

A landlord is required to provide and maintain a rental unit in a state of decoration and repair that, having regard to the having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant and complies with the health, safety and housing standards required by law. The *Residential Tenancy Act* also states that a landlord's obligation in this regard applies even if the tenant knew of the breach at the outset of the tenancy. The landlord testified that neither of the parties believed it would be a lengthy stay by the second tenant (TLH), but a tenancy agreement exists whether in writing or not simply by the collection of rent. I make no findings with respect to how much the rent for the second tenant (TLH) is, nor are there any such applications before me. The fact remains that a tenancy exists and the landlord is required to make the repairs, and I so order.

With respect to the application of the first tenant (SEB), I am satisfied those repairs have been completed and that tenant's application for such an order is hereby dismissed.

With respect to the application of the second tenant who testified (TLH), I hereby order the landlord to make all of the following repairs:

- replace the floors in the hallway;
- repair the holes in the walls and including a huge one in the hall by the furnace;
- repair or replace the bedroom and bathroom doors;
- repaint the rental unit;
- replace the bathroom sink;
- cover the fan in bathroom;
- replace the closet doors;
- install weather stripping in the door and ensure that repairs sufficient to keep the cold out are made.

The landlord also testified that electricity and propane are included in the rent, and I order the landlord to comply with the agreement and ensure that when propane runs out, it is re-filled promptly.

With respect to the garbage dump area, appliances and other items, the landlord testified that a large dumpster is emptied every week and is separate from the appliances, and that the appliances pose no health hazard. I am not satisfied that the tenants have established that the landlord has failed to comply with the *Act*. I do accept, however, that the property is a common area, and the landlord is required to maintain the property as well as the rental units in a state of decoration and repair that makes it suitable for occupation. It is not the responsibility of the tenants to clean common areas. I order the landlord to ensure that garbage is not left on the grounds except at the dumpster location and that it continues to be emptied weekly. I make no orders with respect to the appliances.

Since both tenants have been partially successful with the applications, the tenants are also entitled to recovery of their respective filing fees.

Conclusion

For the reasons set out above, I hereby order the landlord to comply with the *Residential Tenancy Act* by making required repairs in a timely manner.

I further order the landlord to comply with the agreement and ensure that when propane runs out, it is re-filled promptly.

I further order the landlord to promptly make the repairs set out above to the rental unit of the tenant (TLH) or by the end of January, 2015 and if the landlord fails to do so, the tenant will be at liberty to apply for further relief.

I further order the landlord to ensure that garbage is not left on the grounds or common areas of the rental units except at the dumpster location and that the dumpster continues to be emptied weekly.

I order the tenant, SEB to reduce rent for January, 2015 by \$50.00 as recovery of the filing fee.

I order the tenant, TLH to reduce rent for January, 2015 by \$25.00 as recovery of the filing fee.

These orders are final and binding and may be enforced.

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

Dated: December 17, 2014

Residential Tenancy Branch

