



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Skore Holdings Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, ERP, RP, RR, FF

### Introduction

This hearing dealt with an application by the tenant for a monetary order, an order authorizing him to reduce his rent and an order compelling the landlord to perform repairs. Both parties participated in the conference call hearing.

### Issues to be Decided

Is the tenant entitled to a monetary order as requested?  
Should the tenant be authorized to reduce his rent?  
Should the landlord be ordered to perform repairs?

### Background and Evidence

This is a long term tenancy in a manufactured home park. The tenant testified that he has experienced very low water pressure for many months and provided a video showing that the water supply line was not supplying sufficient water. The tenant testified that he gets a trickle of water into his bathtub, which is the first outlet in the house, but no water from other taps. The tenant stated that this has caused him significant inconvenience because he has had to get water through a garden hose attached to a neighbour's manufactured home. The tenant seeks an order compelling the landlord to repair the water line or do whatever else is necessary to ensure that the tenant has an adequate supply of water with adequate pressure.

The landlord testified that all of the other tenants have water, so therefore the tenant must also have water. The parties agreed that the landlord attended the rental unit approximately 3 weeks prior to the hearing and at that time, the tenant demonstrated for him the supply of water available through the landlord's supply line. The landlord insisted that it was fine at the time he attended the unit.

The tenant testified that flooding in the manufactured home park has caused his water line to be exposed whereas it was previously underground and that it is now 3 meters above the ground. As a result, the tenant has had no hot water. The tenant provided a photograph showing the exposed pipe. The landlord insisted that on December 15, he backfilled the hole in question and that the pipe is no longer exposed. The tenant testified that the photograph was taken in January and stated that no backfilling has taken place in that area. The tenant seeks an order compelling the landlord to backfill the area around the exposed pipe and cover over it to ensure that exposure does not occur again.

The parties agreed that on November 28, a sinkhole opened up near the manufactured home site and that as a result, the tenant had no gas, heat, water or power for a period of time. They further agreed that the landlord repaired the broken lines the next day, but on the day after the repair, they broke again and were not repaired until December 15, 2014, at which point the landlord backfilled the sinkhole. The parties agreed that as of December 15, there was no further problem. However, the tenant believes that because the area above the sinkhole is not paved, it could reopen in the event of flooding and asked that the landlord be ordered to pave over the sinkhole. The landlord testified that he intends to pave when the weather gets better.

The tenant testified that the manufactured home park has experienced repeated and severe flooding since 2006 and despite repeated pleas from the tenants, the landlord has not performed the necessary repairs to the park to prevent the flooding. The tenant seeks an order compelling the landlord to perform those repairs. The landlord testified that he intends to divert a creek which runs near the park and he has completed environmental assessments and has contractors in place to perform work, but is waiting for surveying to be completed over the next few weeks and then for permits to be issued.

The tenant testified that due to the interruption of his gas and power from November 28 – December 15, he incurred unexpected expenses because he was unable to stay in his unit due to the extreme cold. He testified that he spent \$326.00 for a 3 night stay from November 30 – December 3 and a further \$276.00 for a further stay. He provided a receipt from the motel showing a \$326.00 Interac payment from his chequing account on November 30 and an invoice showing that his stay was from November 30 - December 3. He also provided a receipt marked "REPRINT" showing that he paid \$276.00 on his VISA card on December 2. The latter receipt does not include an invoice showing the dates stayed. The tenant seeks to recover these costs as well as \$8.70 spent on November 30 as there was no power or gas to cook in his unit and \$147.92 for 2 oil heaters purchased to heat his home. The tenant provided one receipt

showing that he spent \$73.91 on an oil heater and testified that he lost the other receipt. He also claimed \$241.48 for stress.

The landlord testified that he attended the manufactured home park on November 28 when the supply lines were compromised and although he saw the tenant on that day and each day for several days after, the tenant never mentioned that he was unable to stay in his home. The landlord testified that had he known that the tenant was unable to stay at home due to the loss of heat, he would have provided accommodation for the tenant.

The tenant seeks an order permitting him to reduce his rent by 50% until the aforementioned repairs are completed. The landlord disputed this claim, saying that no repairs were required.

The tenant also seeks recovery of the \$50.00 filing fee paid to bring his application.

### Analysis

Although the landlord claimed that no repairs to the park were required, the tenant's evidence overwhelmingly indicates that repairs are badly needed. The parties agreed that the park is subject to serious flooding and the landlord has long delayed addressing that problem. The landlord has an obligation under section 26 of the Act to provide and maintain the manufactured home park in a reasonable state of repair and I find that the landlord has failed in that obligation for the past 9 years. I appreciate that in order to address the flooding the landlord must obtain surveys, environmental studies and permits, but there is no indication that he has acted quickly or reasonably to do so. I find that the tenant has met his burden of proving that the landlord failed to comply with his obligations under the Act and **I order the landlord to diligently pursue completion of the remedial steps required to prevent flooding in the future. I order that the landlord complete the diversion of the creek no later than August 31, 2015 or, if another course of action is recommended, complete that action by that date. If the landlord fails to complete these steps by August 31, the tenant is free to apply for a rent reduction to reflect the landlord's failure to comply with this order.**

The landlord appears to believe that because other tenants in the park have adequate water supply and pressure, this must be true of all tenants. I do not accept this argument as each manufactured home site is fed by a distinct water supply line which may have been compromised. I find the tenant's evidence that he lacks water supply and pressure to be compelling and I find that the landlord has failed to provide the tenant with the water supply and pressure he requires. **I order the landlord to hire a**

**certified plumber to inspect the water supply line leading to this manufactured home site and complete whatever repairs are necessary in order to ensure the tenant has adequate water supply and pressure. I further order the landlord to complete this repair no later than March 6, 2015 and to advise the tenant in writing when this repair has been completed and provide a copy of the plumber's report or invoice to show what work was performed.**

I find the tenant's evidence that the water line is still exposed to be compelling. Although the landlord claimed to have backfilled that area, I accept that the tenant's photograph was taken in January, more than a month after the landlord purportedly addressed the problem. I find that the landlord has breached his obligation to repair the area and **I order the landlord to backfill the area around the waterline and to complete this repair no later than March 6, 2015.** I will not at this time order the landlord to cover the area as the history of problems with this water line indicates that it may be unwise as further problems could develop.

As the landlord has agreed to pave the area where the sinkhole developed, I find it appropriate to set a date by which this work should be completed. I find it reasonable that the work should take place during a season when there is less rain **and I therefore order the landlord to pave over the sinkhole area no later than June 19, 2015.**

In order to succeed in his monetary claim, the tenant must prove that the landlord breached his obligation under the Act and that the tenant's monetary losses were a direct result of that breach. The tenant had an obligation to inform the landlord that his home was unliveable as a result of the supply line breach which occurred on November 28 and lasted until December 15. The landlord testified that other tenants did not find their homes unliveable and in the absence of evidence to the contrary, I accept that this was the case. I find that the landlord was reasonable in believing that the tenant was able to reside in the home during this period and had some means to heat his home and therefore I dismiss the claim for compensation for hotel costs, food and oil heaters. Although the tenant characterized his \$241.48 claim as compensation for stress, I find that it is really a claim for loss of services as this is what the tenant described. The landlord had an obligation under the Act and the standard terms of the tenancy agreement to provide full services to the tenant and save for the one day in that period in which the lines were functioning, the landlord failed in this obligation for 2 full weeks. I find that the tenant paid rent for something he did not receive and is entitled to a refund of that portion of his rent. The tenant pays \$560.00 per month in rent. I find that these services are worth one half of his monthly rent and as the tenant lost these services for half of the month, I find he is entitled to recover 25% of the rent paid for December. **I award the tenant \$140.00.**

As I have found that several significant issues are in need of repair, I find that the tenant is entitled to a rental reduction until these repairs are completed. The tenant currently has insufficient water supply and pressure and no hot water. I find that these are essential services and that their loss is worth 20% of the tenancy. I therefore find that **the tenant is entitled to withhold 20% or \$112.00 of his rent until the landlord has restored adequate water supply and pressure as well as hot water.** I am not satisfied that the landlord was aware of this problem until he received the tenant's application for dispute resolution so I award him no compensation for January, but the landlord was fully aware of the problem in late January and chose not to repair it despite having clear evidence before him. I therefore find that **the tenant should recover \$112.00 of the rent paid for February and he may deduct this amount from the rent due for the month of March.** If the landlord does not repair all of the water problems by March 1, the tenant may deduct from his rent \$112.00 in compensation for water issues in February and \$112.00 for water issues in March as well as other monetary compensation awarded in this decision.

When the water problems are resolved, the parties should agree in writing that they are resolved and that rent will revert back to \$560.00 per month in the first full month following the completion of the repairs. If the landlord believes that the repairs are completed and the tenant does not agree, the landlord may file for dispute resolution and request that an arbitrator order the tenant to begin paying the full amount of rent. If the landlord files for dispute resolution for this issue, the tenant may continue deducting money from his rent until such time as an arbitrator orders that the rent reduction will cease. The landlord may not issue a notice to end tenancy for this rent reduction if the tenant has not agreed in writing that repairs to the water line have been completed or an arbitrator has not ordered the tenant to begin paying full rent again. Should the tenant continue to withhold money after repairs are completed, an arbitrator is free to order that the tenant pay rent wrongfully withheld.

I have not issued an order that the tenant be permitted to reduce his rent due to the landlord's delay in paving over the sinkhole as I do not believe this is a compensable loss. I also have not granted a rent reduction for the flooding issue as this is intermittent and entirely dependent on the weather and the tenant may not experience any loss between now and August 31, the date by which the landlord must resolve the flooding issue.

As the tenant has been substantially successful in his claim, I find he should recover his filing fee and I award him \$50.00.

Conclusion

The landlord is ordered to perform various repairs as outlined above. The tenant is awarded a total of \$190.00 which represents loss of services plus his filing fee and he may deduct this sum from a future rental payment. The tenant may also reduce his rent as outlined 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: February 11, 2015

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Residential Tenancy Branch

