



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Silver Star RV Park  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      RP MNDC, FF

### Introduction

This was a hearing with respect to the tenant's application for a repair order and a monetary award. The hearing was conducted by conference call. The tenant and the landlord's named representatives called in and participated in the hearing. The landlord and the tenant exchanged documentary evidence. The landlord acknowledged receipt of digital evidence consisting of photographs and videos delivered on a USB flash drive. The landlord's representatives acknowledged that they were able to view the tenant's evidence.

### Issue(s) to be Decided

Should the landlord be ordered to make repairs to the plumbing and sewage system?  
Is the tenant entitled to a monetary award and if so, in what amount?

### Background and Evidence

The tenant rents a pad in the landlord's manufactured home park. He purchased the manufactured home on the pad approximately three years ago. The tenant said that he has experienced difficulties with the sewage system soon after he purchased his home and moved in. Sewage disposal from the tenant's home and others in the manufactured home park is handled by a septic system. The tenant testified that he experienced serious problems with drainage and sewage backup into his unit beginning in the spring of 2014. This problem coincided with work done by his neighbour to the trailer next door. The trailer was raised because it was sinking and damaging the trailer and porch. The tenant suspects that the sewage line that runs under the neighbouring trailer may have been damaged, thereby causing or contributing to the tenant's drainage and backup problems. The tenant said that since the neighbour's trailer was raised in the summer of 2014 the sewage back up issues began.

The tenant said that the problem with sewage became intolerable in December, 2014, when there was flooding of raw sewage inside and around his mobile home. The tenant said there was at least 60 gallons of sewage in his bath and shower. The tenant submitted that the problems with the sewage system are the landlord's responsibility and he has not dealt with them over the three year period the tenant has been requesting that the sewage system be fixed properly.

The tenant testified that he has had find another place to stay when the sewage problem was at its worst because of the raw sewage in his home and because of the overpowering smell surrounding his trailer. The tenant submitted receipts for amounts that he claimed to have paid for accommodation at a rate of \$245.00 per week for more than seven weeks and additional amounts paid for help cleaning sewage.

The landlord submitted some documentary evidence in response to the tenant's claim. The evidence included the text of an e-mail from a provincial environmental health officer. The message was dated December 8, 2014 and said in part:

This is to confirm that I made a site visit of the property (tenant's unit) with my colleague (name), on the afternoon of Thursday December 4, and I saw no evidence of a malfunctioning sewage disposal system nor any sewage effluent on the ground. We did confirm that sewage had backed up into the unit and it appears there may be a slope problem from (tenant's) sewer pipe to the septic tank, therefore an assessment by a Registered Onsite Wastewater Professional (ROWP) should be done to determine what is causing the problem of the sewage back up into the unit. Once that has been identified, the responsibility to correct the problem will be determined between yourself and the tenant as per the Manufactured Home Tenancy Act.....

As mentioned, in order to demonstrate you are fulfilling your duties of a landlord in accordance to the Manufactured Home Tenancy Act which is enforced by the Residential Tenancy Branch, it is in your best interest that you ensure you have satisfied all your responsibilities in ensuring that there is adequate sewage disposal provided to the tenants of the mobile home park/campground should a tenant file a dispute.

The landlord submitted a copy of a letter from a Registered Onsite Wastewater Professional (ROWP) dated February 12, 2013. The letter commented in part as follows:

The purpose of this report is to establish the recommended repair for the existing system servicing 3 modular home units within the park.

The part of the septic system that is in question supplies treatment for 3 modular homes, the one in question is unit (tenant's unit). The problem appears to be that the septic transmission line from unit (number) does not have adequate slop to the septic tank. The line slopes in the wrong direction and which appeared to be caused by the modular and lot settling. To fix the problem the line has to be dug up and provided with adequate slop. The modular may have to be lifted to accommodate this as the existing septic tank and treatment field elevation should not be changed. (reproduced as written)

The landlord submitted a copy of a bill for emergency septic tank pumping performed on December 9, 2014 in response to the tenant's report of a sewage back up.

The landlord's representatives referred to the landlord's park rules and regulations. Under the heading: "Moving Into the Park", the rules contained the following provisions, among others:

- 3) Sewer service is only provided with the functionality of the current septic field (Landlord is not obliged to provide sewer service beyond the failure of the current septic field)
- 4) Mobile Home must be set up as low as possible.

At the hearing the landlord's representatives said that the landlord was prepared to immediately carry out necessary work to increase the slope of the sewer line by digging up the line and raising it as recommended by the ROWP. The landlord's representatives said that the tenant would have to raise his manufactured home to allow the sewage line to be raised and this was the tenant's responsibility to be done at his own expense.

During the hearing the parties were given an opportunity to have a private settlement discussion, but I was advised by the parties that the discussion did not produce any agreement. The tenant requested that I render a decision with respect to his application.

### Analysis

The Residential Tenancy Policy Guideline with respect to Landlord & Tenant – Responsibility for Residential Premises provides that:

The Landlord is responsible for ensuring that rental units and property, or manufactured home sites and parks, meet "health, safety and housing standards" established by law, and are reasonably suitable for occupation given the nature and location of the property. The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park.

The Guideline also notes that:

The section in these guidelines on "Property Maintenance" and "Septic, Water and Oil Tanks" is applicable to both Manufactured Home Park tenancies and traditional residential premises tenancies.

The policy provision with respect to septic tanks provides that:

**SEPTIC, WATER AND OIL TANKS**

1. The landlord is responsible for emptying a holding tank that has no field and for cleaning any blockages to the pipe leading into the holding tank except where the blockage is caused by the tenant's negligence. The landlord is also responsible for emptying and maintaining a septic tank with a field.
2. The landlord is responsible for winterizing tanks and fields if necessary.

It is the landlord's responsibility to ensure that the tenant's manufactured home site meets health, safety and housing standards and that it is reasonably suitable for occupation; this includes the provision of an adequate and properly functioning sewage disposal system. I accept the tenant's evidence that there has been a continuing problem with the sewage system and that it became a serious issue in the summer of 2014. The problem reached a crisis in December and the landlord did respond to the immediate problem by having the sewer line cleaned with a snake and the septic tank pumped, but this has not solved the problem. According to the landlord's report there is an inadequate slope on the sewer line leading from the tenant's manufactured home site. The landlord's representatives said that the landlord will have the work done to fix the problem by digging up the line and raising it to provide the necessary slope, but the landlord's representatives said that is up to the tenant to raise his home to accommodate this change.

I do not accept the landlord's position that the tenant should be responsible for work to raise his home to accommodate changes to the sewer line. The pad on which the tenant's manufactured home is placed is the landlord's property. There is no evidence to suggest that there is any defect in the tenant's home or in its foundations or the

manner of its placement on the landlord's pad and I find that it is the landlord's responsibility to provide a functioning sewage system to the tenant's home situated as it is on the pad. I order that the landlord forthwith hire a Registered Onsite Wastewater Professional to perform the necessary work. If the landlord is unable to provide a functioning sewage connection without raising the tenant's manufactured home then I find that the landlord must bear the cost of raising the tenant's manufactured home. I note in the landlord's park rules, that one of the landlord's requirements is that the mobile home must be set up as low as possible. I further note that the landlord may not rely on a park rule to contract out of its obligation to provide a functional sewage system as the landlord appears to do with the current provision in the park rules stating that the landlord is not obliged to provide sewer service beyond the failure of the current septic field.

The tenant has claimed a monetary award in the amount of \$1,940.00 consisting of a \$245.00 per week charge for temporary housing, plus \$50.00 claimed as payment for three hours of cleaning sewage, apparently by the same person said to have provided the tenant with temporary housing. The tenant did not provide evidence, apart from the receipts with respect to his temporary housing. He did say that the rental unit was unliveable for the times in question because of the smell and because he could not use the toilet, shower or washing facilities.

It is the landlord's obligation to provide a functioning sewage system. Because the system failed, the tenant was unable to occupy his home for a period of some weeks. I find that the tenant is entitled to some reasonable amount of compensation for the loss of use of his home, but I am not persuaded that he should be awarded the amounts claimed for temporary housing at a rate exceeding \$1,000.00 per month.

I find that the tenant incurred some cleanup costs and was deprived of the use of his home because of the sewage problem for close to eight weeks. I find that an appropriate award for cleanup and temporary housing is the sum of \$1,000.00. The tenant is entitled to recover the \$50.00 filing fee for his application, for a total award of \$1,050.00 and I grant the tenant an order under section 60 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court. Instead of proceeding to enforce the monetary order, the tenant may deduct the award from future instalments of pad rent due to the landlord.

### Conclusion

The landlord has been ordered to make repairs to the sewage system. The tenant has been granted a monetary award. The tenant has leave to reapply if the repairs are not completed and the sewage system returned to full service within a reasonable time.

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: March 4, 2015

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Residential Tenancy Branch

