



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      DRI, MNDC, RP, RR, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant disputing an additional rent increase; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order that the landlord make repairs to the unit, site or property; for an order permitting the tenant to reduce rent for repairs, services or facilities agreed upon but not provided; and to recover the filing fee from the landlord for the cost of the application.

The landlord and tenant attended the hearing and each gave affirmed testimony. The tenant was also accompanied by another person for support only, who did not testify or take part in the proceedings, with the consent of the landlord. The parties also provided evidentiary material in advance of the hearing to the Residential Tenancy Branch and to each other, and were given the opportunity to question each other respecting the evidence and testimony provided. All evidence and testimony has been reviewed and is considered in this Decision. No issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

- Has the tenant established that rent has been increased contrary to the *Manufactured Home Park Tenancy Act*?
- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for damages resulting from water issues to the manufactured home site?
- Has the tenant established that the landlord should be ordered to make repairs to the site or property?
- Has the tenant established that rent should be reduced for repairs, services or facilities agreed upon but not provided?

### Background and Evidence

**The tenant** testified that this tenancy, being the rental of a manufactured home site within a manufactured home park began about 4 years ago on a month-to-month basis and the tenant still resides there. Rent in the amount of \$247.00 per month is payable on the 1<sup>st</sup> day of each month and there are no rental arrears.

The tenant further testified that about a year ago the tenant wasn't feeling well and neighbours told the tenant that no one in the park drank the water because it was not safe to drink. The odor was also unpleasant. The tenant told the landlord what was heard but the landlord said the water was fine. The tenant called the health authority requesting that the water be tested, but they refused. The landlord was called by the health authority to ensure water was being sampled, and then the health authority told the tenant that the samples were fine and the tenant could purchase a kit and do the testing if the tenant pleased. The tenant paid about \$400.00 for the kit and sent 2 samples to laboratories which came back with bacteria called coliform. Both labs told the tenant not to drink the water and that a bug in it multiplies and it's not safe to drink. The health authority wouldn't accept those results, so the tenant contacted the MLA who called the health authority. As a result, the health authority arranged to test the water, and then put a "boil water" advisory in the park sometime in the spring of 2014.

The tenant further testified that in December, 2014 the tenant had no water for 5 days and had to take home jugs of water to flush the toilet and showered at a local pool. Throughout last year and until now, water has been off an on and when on has a lower pressure. The tenant's washing machine is not working as a result, and the landlord replaced the insides of tanks and filters in the shower. However, there was no water on Easter Sunday. The tenant called the landlord but the pipes weren't fixed until the next day. Again last night there was no water, and another time. The water is often too dirty to use and the tenant cannot shower and is afraid to use the washer or dishwasher. The process has caused the tenant time and money having to go home from work calling the landlord about the problem and not getting an immediate response. The water is never clear, and the tenant has provided copies of the water sampling results. Also provided are numerous emails and a Boil Water Notice dated February 4, 2015, stating that the advisory is due to a water line break.

The tenant claims \$450.00 for damages resulting from loss of usable water.

**The landlord** testified that the park is 50 years old and most of the water lines are that old. There were no regulations at that time, and instead of looping, the water lines off the main water lines dead-end. A lot of sediment is in the lines and disturbances by a break in the line or other reasons for turning the water off cause the sediment to appear in the tenant's manufactured home. The lines are failing.

In December, 2014 a line had broken near the tenant's site. The landlord had it repaired and the health authority was advised. A "boil water" advisory was put out and the landlord notified all tenants. To remove the advisory, the landlord had to get 3 satisfactory samples, and has to test it once per month and has done so since prior to this tenancy. The tests always come back as acceptable. A certain amount of the bacteria is tolerated, but now the landlord is required to test the water every 2 weeks. The health authority wrote to the tenant saying that their tests were accurate, not the tenant's. The landlord received 3 satisfactory results, but because the tenant contacted the MLA and the press, the health authority has now kept it on and new rules now apply, which are not applicable to other parks, one of which the landlord also owns.

The landlord told the tenant that if dirty water runs from the taps, the tenant should run a hose outside for a fraction of an hour, it will run clear. 99% of the time the tenant has water. It's extremely rare, but more now because the landlord is working on it which disturbs the sediment.

The landlord acknowledges the problem, and is working hard at fixing it. A contractor is lined up, and the next stage is an engineer. Everything has to be approved by the health authority, which takes time.

There are 100 tenants in the park and this tenant is the only one who has made an application. Another park in the community is on town water and rent is \$310.00 per month, which is higher due to the reliable source of water. The tenant's monetary claim is reflected in the amount of rent payable.

The landlord also testified that rent has only ever been increased by the amounts permitted by the *Act* and the regulations, and has provided copies of portions of Notices of Rent Increases, but not the entire notices.

### Analysis

Firstly, with respect to the tenant's application disputing an additional rent increase, I have reviewed the evidentiary material provided by the parties, and having only portions of copies of rent increase notices, it is not possible to determine whether or not the increases were in accordance with the *Manufactured Home Park Tenancy Act* and regulations. The tenant did not raise that during testimony, and I find that the tenant has failed to establish that rent increases were contrary to what is permissible under the *Act*.

With respect to the water issues, the landlord's position is that the tenant's claim for compensation is reflected in the cheaper rent due to the unreliable water system in comparison to other parks in the area. I don't accept that. The tenancy agreement includes water regardless of the amount of rent payable. I accept that the landlord is taking steps, likely at significant cost to the landlord, to remediate any and all water problems within the park. However, I am also satisfied that the tenant is not getting what she's paying for and the lack of

usable water has devalued the tenancy. I order the landlord to continue to comply with the *Act* by rectifying the water issues.

The *Act* states that a party may apply for monetary compensation for damages resulting from the other party's failure to comply with the *Act* or the tenancy agreement. The tenant testified that there have been 7 full days where the tenant had no water at all, and the landlord did not dispute that. I find that the tenant is entitled to half the rent at the current rate for those 7 days, or \$57.63 ( $\$247 / 30 = 82.33 \times 7 = 57.63$ ).

A party who makes a claim against another party is required to do whatever is reasonable to mitigate or reduce the damage or loss suffered. In this case, the tenant testified that the landlord advised the tenant to run the hose outside of the manufactured home for a fraction of an hour until the water runs clear. I accept that that is inconvenient for the tenant, however the tenant is aware that the landlord is taking serious steps to upgrade the system, and the tenant must be somewhat patient. I also find that the tenant has been inconvenienced, as well as fearful of damaged appliances due to the amount of dirt and sediment in the water. The tenant also testified that the water is never clear and is sometimes worse than other times and commenced in the spring of 2014. Compensation at \$450.00 over the course of one year, April, 2014 to April, 23, 2015 (the date the application was filed) is \$37.50 per month. However, the tenant has not provided any evidence of becoming ill in the spring of 2014 or that the water caused any illness. The tenant advised the landlord by way of an email on October 24, 2014 of the results of the water testing and the water has not been totally unusable for the entire time. I find that compensation in half the amount, or \$18.75 per month from October, 2014 to June, 2015 is reasonable, totalling \$168.75.

I also find that the tenant is entitled to reduce rent by \$18.75 per month, commencing with July, 2015 until the water lines to the manufactured home site are repaired.

During the course of the hearing the landlord agreed to pay for the cost of a plumber to flush out the hot water tank if necessary and mitigate any damage to appliances in the tenant's manufactured home caused by debris from dirt, sediment or other water issues caused by the faulty water system of the landlord once repairs are completed, and I so order.

Since the tenant has been partially successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee.

In summary, I dismiss the tenant's application disputing an additional rent increase; I grant a monetary order in favour of the tenant in the amount of \$57.63 for loss of water and \$168.75 for the devaluation of the tenancy; recovery of the \$50.00 filing fee, for a total of \$276.38. I hereby order the tenant to reduce rent for future months by that amount in addition to \$18.75 per month commencing with July, 2015 as recovery.

Conclusion

For the reasons set out above, the tenant's application disputing an additional rent increase is hereby dismissed.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$276.38 and order that future rent be reduced until the amount is recovered.

I further order that rent be reduced by \$18.75 per month commencing with July, 2015 and until the water issues are rectified and clean water flows to the rental unit

I further order the landlord to continue to comply with the *Act* by rectifying the water issues in the park as soon as possible.

I further order the landlord to provide plumbing services, at the landlord's expense to flush out the tenant's hot water tank if necessary and mitigate any damages caused to the tenant's appliances by the manufactured home park water system once repairs are completed, by consent.

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: June 17, 2015

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Residential Tenancy Branch

