



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC FF OLC

Introduction:

Two tenants of this manufactured home park have made applications. Both attended the hearing together with a representative for the landlord. The landlord acknowledged service of the Applications by registered mail. Pursuant to section 66 of the *Manufactured Home Park Tenancy Act* (the Act), these disputes are being heard at the same time as they are related and are with the same landlord. The tenants request pursuant to the Act for orders as follows:

1. That the landlord obey the rules of the Park established as authorized under section 32 of the Act regarding dogs and that the landlord protect their peaceful enjoyment;
2. The male tenant also requests compensation of \$6,000 to compensate him for the harassment and intimidation he has suffered due to the landlord failing to protect his peaceful enjoyment contrary to section 22 of the Act

No filing fees are requested as they were waived.

Issues to be Decided:

Have the tenants proved on the balance of probabilities that the landlord is failing to obey the Rules of the Park and failing to protect their peaceful enjoyment? If so, is the male tenant entitled to compensation for the landlord's neglect and in what amount? Is each of the tenants entitled to recover their filing fees for their individual applications?

Background and Evidence:

The parties invited me to consider three previous hearings between the male tenant and the landlord. The male tenant has lived in the park for 17 years and the female tenant since 2006. Both tenants say that the incident of the landlord ignoring the rules and subjecting them to intimidation and harassment from other tenants has increased significantly since February 2016. The male tenant said that there is a pattern of the landlord being more respectful for a few months after a hearing but then he reverts to a pattern of ignoring abuse of other tenants to these tenants and even 'siding' with them.

Both tenants have a major issue with dogs running loose in the park. They supplied many photographs as evidence showing dogs playing together and running loose. A copy of the Park Rules was provided in evidence and the lawyer for the landlord said the Rules have not been changed.

Regarding dogs, the Rules provide:

11. Tenants who presently own a dog will not let it run at large.

12. If a tenant did not own a dog before moving in, the tenant shall not bring a dog into the trailer park after occupancy nor acquire a dog by any other means during occupancy.

All dogs must be kept on leash. This applies to visitors, also. A tenant is responsible for the conduct of his/her visitors. When you leave the park for a day or longer, you must take your dog with you. You may leave it in the care of a responsible tenant.

The tenants say the landlord is completely ignoring these provisions of the Rules. As a result, she says when she goes out to the trail from her home, dogs approach her and her dog from everywhere, especially a dog called Poo who is owned by a cabin renter in the park. She said her dog reacts unfavourably to other dogs on the loose approaching, whether they are friendly or not. When she made a request to the landlord to enforce the Park Rules, she was ignored and then gossiped about and intimidated by others who object to her requests which had apparently been broadcast by the landlord.

The male tenant said with many dogs running loose, you get a 'pack' which is dangerous with fighting dogs and feces everywhere. He said he witnessed the landlord speaking to S. a recent tenant and telling her to keep her dogs on her property. She said they are gone in a second if I turn my back. The two dogs of this recent tenant bark, growl and act aggressively as they run loose.

The landlord's representative said the landlord has managed the park for 10 years and these tenants are the only ones with complaints. He points to some other tenants writing in support of the landlord. He said these tenants have created a spirit of fear and intimidation following their complaints. He points out that it is hard to substantiate their complaints for they relate to staring or finger gestures which the landlord denies. He points to a letter written by the recent female tenant one day after she moved in where she states the male tenant in this dispute threatens to kill her dogs. (The tenant pointed out that the letter was written by the landlord for her) The representative submits there is insufficient evidence to support these claims, they are arbitrary and frivolous and should be dismissed. He said there is only evidence that the dog Poo is loose sometimes and other tenants' letters submit he is no problem and like a park

mascot. He submits that the landlord fears if dogs are restricted which is unhealthy, that owners will leave the park rather than keep their dogs on leash.

The male tenant who requests compensation said the landlord is not abiding by the terms of the last hearing. He said he has been there 17 years, has no complaints against him, he keeps a nice yard and in 2008, he admits the landlord even helped him financially. However, he says he now has no peaceful enjoyment. The landlord lives across from him and the cabin renter (owner of the dog, Poo) lives just up the hill from the landlord. They sit and stare at the tenant and give him dirty looks and others laugh and follow suit with name calling etc. He said a lot of the problems come from the arguments about the loose dogs. The cabin renter threatened to kill him and he called the Police. Since then, he alleges they have made life so difficult for him. In the last hearing, the settlement included the tenant of Lot 5 was to leave him in peace but they have not. His dog barks constantly and the owner makes rude finger gestures.

The female tenant said she witnessed the problems with the owner in Lot 5. She said that owner still causes problems and as he is her neighbour, he makes an issue of everything in her garden. Since she explained the dog issue, they have escalated their behaviour and let visitors' dogs out at her gate to bother her dog. They have a fenced yard and could keep them contained but do not. She feels intimidated for she lives alone and no longer feels secure in her home or out walking because of the behaviour of the landlord and other tenants in the park.

Analysis:

I find section 22 of the Act provides a tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) Reasonable privacy
- (b) Freedom from unreasonable disturbance;
- (c) Use of common areas for reasonable and lawful purposes, free from significant interference.

Awards for compensation are provided in sections 7 and 60 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,

4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Director's orders: compensation for damage or loss

S. 60 Without limiting the general authority in section 55(3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party. Section 60 of the Act does *not* give the director the authority to order a respondent to pay compensation to the applicant if damage or loss is not the result of the respondent's non-compliance with the Act, the regulations or a tenancy agreement.

I find in the case of both tenants that the landlord has violated the tenancy agreement and the Act by not obeying the Rules of the Park respecting dogs. Because of his neglect in enforcing the Rules in the park which he manages, I find he has caused the tenants significant loss of their peaceful enjoyment. I find the tenants' evidence of dogs running loose in their photographs is persuasive that this lack of enforcement continues. Although the landlord's representative provided letters from other tenants saying that dogs running loose were no problem and naming dogs and their characteristics, I find these letters do not negate the landlord's responsibility to enforce the Rules and protect the peaceful enjoyment of every tenant. I find the female tenant is particularly fearful and intimidated because when she takes a walk, the loose dogs approach her dog who reacts negatively to this. I find other dog owners are dismissive and disrespectful to her because of her complaints which I find are legitimate although not being addressed by the landlord.

Although the landlord's representative contended the owner would lose tenants if he enforced the Rules, I find this is a business loss (which he may or may not suffer) which may be incurred largely because he has not obeyed or enforced the Rules for years. Owners who rent in the park are entitled to rely on the Park Rules and the manager, in managing the park properly, is obligated to enforce them.

The female tenant requested no compensation but the male tenant who has been in several hearings with the landlord is requesting \$6,000 because he said the landlord ignores the orders of the previous arbitrators. I find the hearing in 2011 was cancelled. I find the hearing in December 2014 was settled but the arbitrators facts stated the male tenant and his neighbour complained about each other and the male tenant did not get along with most residents in the park. In the settlement agreement, the male tenant agreed to make efforts to get along with other tenants in the park. In the 2015 hearing, there was a mutual settlement wherein the tenant and the landlord agreed to treat each other with respect and the landlord agreed he would direct the tenants of Lot 5 to treat

him with respect. The tenant says the tenants of Lot 5 are still making finger gestures, spying on him and allowing their dog to bark constantly. The female tenant who lives next door to Lot 5 states they are intimidating and have escalated their behaviour since she complained about their visitors' dogs. I find as the landlord's representative said, that gestures and finger pointing are hard to prove since it is matter of opinion and interpretation as to whether a gesture or look is directed at a person. However, I find the weight of the evidence is that the tenants of Lot 5 are continuing to cause problems with their dog barking and ignoring park rules regarding visitors' dogs. I find the female tenant's evidence on this point credible as she described graphically what happened and she has many photographs illustrating the dog issue. I find it goes well beyond one dog, Poo, being loose and even if it is only one, it is contravening the park rules and the landlord by his neglect at enforcement is escalating the problem in the park.

I find the tenants who request he obey and enforce the Park Rules are victimized as other owners like the freedom of the Park. Although many tenants praise the landlord and such letters are in evidence, I find he is not enforcing the Park Rules which apply to every tenant and by neglecting to do this, he has caused the peaceful enjoyment of these two tenants to be significantly disturbed contrary to section 22 of the Act. They have had their privacy invaded by loose dogs approaching them and some barking constantly. I find this is significant interference. I find as this was caused by neglect of the landlord to enforce the rules that the male tenant is entitled to compensation.

As it appears he caused some issues himself and he made settlement agreements, I find insufficient evidence of this significant interference until February 2016 when the entrance of more dogs caused problems and the landlord neglected to enforce the park rules. I find the tenant pays \$410 a month for rental of his pad. I find the male tenant entitled to a rent rebate of \$100 a month for 5 months (February to June 2016). I give the tenants leave to reapply for further rebates if the landlord neglects to enforce the Park Rules.

Conclusion:

I find the male tenant entitled to a rent rebate of \$500 which may be deducted from his future rent. I give the tenants leave to reapply for further compensation if the landlord continues to ignore their complaints and neglects to enforce Park Rules.

I HEREBY ORDER THAT the male tenant (G.M.) may deduct \$500 from his future pad rental to compensate him for the neglect of the landlord.

I HEREBY ORDER THE LANDLORD to obey and enforce the Park Rules, in particular Rule 11 which provides that Owners may not let dogs run at large and

all dogs must be kept on leash. This applies to visitors' dogs and a tenant is responsible for the conduct of his or her visitors. Tenants must not leave their dog, except in the care of a responsible tenant, if they leave the park for a day or longer.

I HEREBY ORDER THE LANDLORD to comply with the Act and respond to tenant complaints, respecting their privacy and without disclosing them to others and making them a victim of discrimination or harassment.

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 16, 2016

Residential Tenancy Branch