



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, ERP, RP

Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for:

- an order requiring the landlord to comply with the *Act*, *Manufactured Home Park Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 55;
- an order for the landlord to make emergency repairs to the rental unit pursuant to section 27; and
- an order for the landlord to make repairs to the rental unit pursuant to section 27.

Initially only the tenant attended the hearing. However approximately 30 minutes after the hearing was convened the landlord called into the teleconference.

The landlord confirmed receipt of the tenant's application for dispute resolution and evidence packages. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the application and evidence packages. The landlord did not submit any documentary evidence for the hearing.

Both parties were given full opportunity to provide affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement?

Is the tenant entitled to an order for the landlord to make emergency repairs to the rental unit?

Is the tenant entitled to an order for the landlord to make repairs to the rental unit?

Background and Evidence

As per the testimony of the parties, the tenancy began on July 23, 2015 on a month-to-month basis. Rent in the amount of \$500.00 is payable on the first of each month. The tenant continues to reside in the manufactured home.

The tenant's manufactured home site backs onto a steeped green belt that is part of the manufactured home park property. At the base of the green belt outside the tenant's manufactured home site is a retaining wall.

On July 2, 2016, the tenant had a home inspector inspect the manufactured home site and home. The tenant submitted a copy of the written report.

Water Drainage

It is the tenant's position that water from the steeped green belt is not draining properly resulting in excess puddles on her manufactured home site and under her manufactured home. The tenant acknowledged that the landlord has made attempts to fix the issue but contends the site is still soggy. The tenant seeks to have the water drainage issue assessed by a professional who will recommend and/or make the necessary repairs.

In reply, the landlord testified that approximately ten years ago, a drainage pit was constructed under what is now the tenant's parking spot. The landlord estimates that at some point the drainage site must have been severed. In response to the tenant's complaint about improper water drainage, the landlord upgraded the drainage system in May of 2016. The landlord acknowledged that some water will continue to run down the hill and naturally create puddles. The landlord suggested the tenant could readjust her down spouts to minimize water going under her manufactured home. Over the summer the landlord observed what appeared to be dead grass over the newly installed drain pit and catch basin on the manufactured home site. Based on this observation, the landlord contends the water drainage issue has been addressed and rectified.

Safety

The tenant seeks the removal of a topped tree within the green belt as she fears it is a safety hazard to the surrounding manufactured homes. Additionally the tenant seeks the replacement of the rotten retaining wall adjacent to her property.

The landlord testified that the tree was topped and left in the greenbelt. The landlord has no plans to remove the downed tree. He testified that it does not pose a safety risk.

Maintenance of Park Grounds

The tenant seeks to have the landlord remove the blackberry bushes, morning glory, ivy and wisteria that exist on the green belt behind her manufactured home site.

The landlord testified that the green belt sits outside the tenant's manufactured home site. It is a 45 degree slope that he does not maintain. Some renters choose to maintain the section of green belt directly behind their manufactured home site whereas others do not.

Health

The tenant complains that a neighbouring tenant does not pick up dog waste regularly and seeks to have this rectified. The tenant alleges the resulting puddles from improper water drainage are a breeding ground for insects which is a health hazard. The tenant indicates that her dog is continuously sick as a result of ingesting the mud on the manufactured home site.

The landlord testified that in an effort to satisfy the tenant he has spoken to the neighbouring tenant about picking up dog waste in a timelier manner.

Analysis

Water Drainage

The parties provided conflicting testimony in relation to the water drainage issue. The landlord testified that it had been repaired in May of 2016 and therefore rectified whereas the tenant contended that the site remains wet. Based on the home inspection report that speaks to water seeping through the retaining wall on a warm dry July day I find the water drainage issue was not entirely rectified. Pursuant to section 27 of the *Act*, damaged water pipes constitute emergency repairs.

For this reason, I order the landlord to obtain further evaluation of the drainage by a qualified technician or engineer no later than November 15, 2016. In the event the landlord does not obtain this independent evaluation by November 15, 2016 I authorize the tenant to withhold rent in the amount of \$50.00 per month until such time the independent evaluation is completed. I order the landlord to make the necessary repairs pursuant to the independent evaluation no later than four weeks following the evaluation. The landlord must use a licenced professional to make the repairs to the drainage system. If the landlord fails to make the necessary repairs, the tenant may bring a further claim against the landlord for loss of use and other appropriate relief.

Safety

Based on the home inspector's recommendation to either remove the tree or top the tree to prevent a safety risk, the landlord topped the tree. I find the tenant has provided insufficient evidence to establish the existence of the topped tree poses a safety risk and therefore dismiss this portion of the tenant's claim.

Pursuant to the home inspector's report which indicates the retaining wall is in a deteriorated state I order the landlord to ensure the retaining wall is included in the evaluation of the drainage system, to be completed no later than November 15, 2016.

Maintenance of Park Grounds

Under section 26 of the *Act*, the landlord is required to provide and maintain the park in a reasonable state of repair and comply with housing, health and safety standards required by law. I find the existence of bushes, vines and weeds in a greenbelt on park property to be a reasonable state of repair. The tenant has not provided what housing; health or safety standards require the removal of such. Accordingly I dismiss the tenant's application for an order for the landlord to remove the blackberry bushes, morning glory, ivy and wisteria that exist on the green belt behind her manufactured home site.

Health

I dismiss the tenant's claim in relation to dog waste as she has failed to substantiate that this is a health issue.

Conclusion

I order the landlord to obtain further evaluation of the drainage system which includes the retaining wall by a qualified technician or engineer no later than November 15, 2016. If landlord fails to obtain this independent evaluation by November 15, 2016 I authorize the tenant to withhold rent in the amount of \$50.00 per month until such time the independent evaluation is completed.

I order the landlord to make the necessary repairs pursuant to the independent evaluation no later than four weeks following the evaluation. The landlord must use a licenced professional to make the repairs to the drainage system. Should the landlord fail to make the necessary repairs, the tenant may bring a further claim against the landlord for loss of use and other appropriate relief.

The remainder of the tenant's application is dismissed without leave to reapply.

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: October 14, 2016

Residential Tenancy Branch