



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ERP RP

Introduction

This hearing was convened in response to an application by the tenant for emergency repairs and for the landlord to make repairs pursuant to the *Manufactured Home Park Tenancy Act* (the Act). The tenant also claims the landlord is not complying with a previous repair order.

Both parties participated in the hearing. The parties were given opportunity to resolve and settle their dispute to no avail. The landlord confirmed receiving the evidence of the tenant. Prior to concluding the hearing both parties acknowledged presented all of the relevant evidence they wished to present. It is relevant this tenancy has been the subject of a previous hearing. The parties acknowledged an acrimonious tenancy relationship characterized by communication issues and lacking mutual trust.

The hearing proceeded on the tenant's claim the landlord is not complying with an Arbitrator's repair order made on October 14, 2016; and on the merits of the tenant's request the landlord attend to having a "slope stability check" performed on the sloped greenbelt behind the tenant's manufactured home park site.

Issue(s) to be Decided

Has the landlord failed to comply with an order?

Should the landlord be ordered to make repairs to the unit, site or property?

Background and Evidence

A previous Arbitrator Decision dated October 14, 2016 ordered the landlord to conduct certain aspects of work starting by November 15, 2016 in respect to the sloped

greenbelt behind the tenant's site; principally the retaining wall and it's inclusive drainage system. The landlord was then ordered to make repairs within certain parameters. The tenant claims the landlord is not complying with the order as the landlord has not yet *completed* the prescribed repairs.

Under affirmation the landlord testified they were successful in securing a qualified geotechnical contractor whom provided an evaluation of the drainage issue subsequently submitted December 20, 2016 and viewed by the tenant. The landlord testified the contractor provided plans and made recommendations toward repairs subject to the required weather/seasonal conditions to perform the repair work. The landlord testified they have ordered materials for the prescribed work and are solely waiting for the weather and other factors to evolve so as to move forward with continuation of the work and compliance with the repair order. The landlord testified they have every intention to perform the required work however the unusually cold seasonal weather of the past 2 months have hindered the start of work. The tenant acknowledged having viewed some of the reported ordered materials for the repair work, however generally does not trust the landlord.

In addition the tenant requests for the landlord to be ordered to conduct a "slope stability check" in respect to the slope behind their site. The landlord questions the need for same however will weigh the benefit and need of such work following an agreed meeting between the tenant, landlord and the geotechnical contractor at or near the outset of the currently planned work.

Analysis

The full text of the *Manufactured Home Park Tenancy Act*, Regulation, and other resources can be accessed via the website: www.gov.bc.ca/landlordtenant.

On preponderance of the relevant evidence before me I find the following.

I find the landlord was ordered to obtain an evaluation of the retaining wall drainage system and the retaining wall by November 15, 2016, and in that absence the tenant was permitted to reduce rent by \$50.00 per month until the evaluation was obtained. I find the evaluation was obtained December 20, 2016. I find the order also specified that following the evaluation the landlord was to *make*, or at least initiate, the necessary repairs no later than four weeks following the evaluation: which I find equates to the date of January 18, 2017.

I accept the landlord's testimony and their conduct to date as moving toward satisfying the repair order, and that to date factors beyond the landlord's control are preventing completion of the repairs. I find that to date the landlord has sufficiently complied with the repair order dated October 14, 2016. I find it is premature for the tenant to conclude that the landlord has *failed to make the necessary repairs* in support of a further claim for relief against the landlord. As a result, I dismiss this portion of the tenant's claim.

I find that **Section 26** of the Act prescribes the landlord must maintain and make repairs in compliance with housing, health and safety standards *required by law*. I find I have not been presented with evidence supporting that the landlord is required by law to perform or have prepared a "slope stability check" and in this respect I must dismiss the tenant's request seeking the landlord attend to this aspect. None the less, it must be noted that this is not to say the landlord ought not to conduct a "slope stability check" if in their discretion it is prudent to do so or is their due diligence to perform such an evaluation. As a result, I decline to order the landlord attend to preparing a "slope stability check".

Conclusion

The tenant's application is dismissed in its entirety, with leave to reapply.

This Decision is final and binding on both parties.

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 21, 2017

Residential Tenancy Branch