



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TIMBERLAND PROPERTIES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC, O

Introduction

The tenant applies for an order that the landlord comply with the order of an arbitrator in a previous decision (joined file numbers on cover page of this decision) and for a rent reduction.

The previous decision was rendered October 24, 2016.

Both parties attended the hearing, the landlord by its representatives. The hearing took the form of a settlement discussion and no formal evidence was submitted. No sworn testimony was given. It was agreed that I would consider the previous decision and the submissions of the parties and make a more “up to date” or definitive direction regarding compliance and time lines to see that the tenant’s site is repaired in a timely manner.

Issue(s) to be Decided

Is a further compliance order or a variation of the existing one necessary? If so what terms are appropriate?

Background and Evidence

The manufactured home site is located in a 161 site manufactured home park.

A portion of tenant’s site was subsiding or threatening to subside. The stability of a portion of her site and the foundation of an addition to her manufactured home were thought to be at risk. She, in conjunction with three other tenants in the park with similar concerns, made an application for repairs and rent reduction.

After a hearing on September 26, 2016 the arbitrator determined that the landlord had an obligation to ensure that the manufactured home and the additions that were allowed by the previous landlord were stable: that neither the addition nor the debris that comprised the retaining wall between this site and its neighbour, site 114, slid down onto the neighbouring site, and that the manufactured home pad had a proper driveway.

The previous arbitrator noted that most of the problems might be solved by the construction of a properly designed retaining wall, in place of the rather primitive one there currently.

The arbitrator ordered the landlord to:

- Immediately arrange for inspection by and reports from a qualified geotechnical engineer and a qualified civil engineer, (one that is not related to the landlord), at its' expense, that provide recommendations as to how to restore the site to stability and to reinforce/rebuild the footings under the addition so that the addition is level and stable.
- Provide copies of any reports received to the tenant within ten business days of receipt.
- Promptly develop a reconstruction plan based upon the above report, applicable environmental and building regulations, and current building practices and codes. The objective of this plan is to ensure that the manufactured home site is stable; the addition is level and stable; and there is a proper driveway on the site.
- Obtain all necessary permits for the work.
- Implement the reconstruction plan as soon as possible.

After that hearing the landlord quickly retained an engineering firm to investigate this site and the three others involved in the application. Mr. H. for the landlord states that the engineering firm includes both geotechnical and civil engineers. The engineering firm examined the site on or about December 20. It appears to have made an initial report received by the tenant in mid-January.

There is no evidence of a reconstruction plan based upon the report.

Analysis

The tenant's advocate argues that the landlord must: 1) obtain the assessment of a civil engineer, 2) obtain an ecological assessment, 3) inquire of the local government the need for building permits, 4) put together a repair and remediation plan, and 5) implement repairs.

The parties have left it to me to set out a reasonable time line for what I consider to be required steps in the circumstances.

As the engineer's report shows, work must be done on the slope between this site and its neighbour, site 114. In my view, the most important item is that the landlord prepare and execute a plan for the remediation of that slope.

I direct that the landlord prepare a repair and remediation plan for the slope, certified by a qualified engineer, setting out the work that, in the engineer's professional opinion, is required to return the slope to a safe and acceptable state. I direct that the plan be prepared and that a copy of it be provided to the advocate for the tenant by April 30, 2017.

I direct that the work required in the repair and remediation plan be completed no later than August 31, 2017. If the work is not completed by that time, the tenant may apply for a monetary order or rent reduction or rent redirection as appropriate.

It is assumed that the work will meet all applicable codes and bylaws and be conducted with all necessary permits in place. I make no order requiring an ecological assessment. That is a requirement to be imposed by local, provincial or federal governments and it is implicit that in carrying out the work the landlord will comply with any such laws, codes, regulations or directives imposed by any of those levels of government.

The question of a rent reduction was raised, however, for the reasons set out by the previous arbitrator I decline to award a rent reduction at this time. Even had the previous arbitrator's order been complied with perfectly, work cannot be undertaken until the weather is dryer. Though the landlord has not perfectly complied with the order of the previous arbitrator, it has proceeded with some diligence and, I consider, it has a good faith intention to resolve the problem of the slope; a problem both it and the tenant appear to have inherited without forewarning.

Conclusion

The order imposed by the previous arbitrator has been modified accordingly.

As the landlord did not comply fully with the previous arbitrator's order, this application was appropriate. I therefore award the tenant recovery of the \$100.00 filing fee for this application and I authorize her to reduce her next rent by \$100.00 in full satisfaction of the fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 02, 2017

Residential Tenancy Branch