



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PAXTON VALLEY TRAILER COURT and PRESTON ENTERPRISES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, MNSD, OPT, AAT, AS, RR, O, MND, FF

Introduction

In the first application, the tenant seeks a monetary award for damages suffered as the result of a fire on April 13, 2017 that completely destroyed her manufactured home and its contents. She also seeks compensation alleging the respondents (collectively referred to as "the landlord") failed to maintain cleaning standards in the manufactured home park and it bullied her and failed to police the conduct of occupants of other sites in the park. Further she alleges in her application that the landlord stole her recreational vehicle and truck.

In response the landlord seeks damages, including damages for personal injury, resulting from the fire and the clean up afterward.

The hearing of this matter started on September 26 but was adjourned at the tenant's request as her lawyer was not available and certain needed information had not yet been produced by third parties, including a Fire Department report.

The parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

The central question is whether the fire that caused loss to the parties can be attributed to the actions, inaction or neglect of either. As well, has the landlord failed in its duty to maintain the park property or deal with disruptions injurious to the tenant's quiet enjoyment of her site?

Background and Evidence

The manufactured home site is located on an eleven site park in a semi-rural area.

There is as written tenancy agreement though neither side produced a copy. The tenant bought the manufactured home in 2012. The evidence is not clear but I assume the home was already located on the site in question. The monthly rent is \$225.00.

It is not disputed that on April 13, 2017 there was a fire in or near the home that resulted in its complete destruction as well as the burning of a van on the site. The neighbour Mr. G.M.'s shed was destroyed in the fire.

The tenant was not home at the time of the fire, though it appears that two men were in the home; the tenant's boyfriend Mr. G.P. was sleeping on the couch in the home and escaped, perhaps with the help of the neighbour Mr. G.M. A second man was sleeping in the small bedroom in the home and he escaped with the help of Mr. G.M.

The tenant's home and its contents were burned to the ground. As well she lost various belongings outside the home.

The tenant is convinced that the fire started as the result of the landlord failing to upgrade power poles and a transformer on the property. She opines that her neighbour Mr. G.M. was growing marijuana in his shed, with the accompanying grow lights and fans. She thinks the electrical draw from that site caused an overload leading to the fire. She thinks the untrimmed trees around her site contributed to the fire.

Despite this, tenant also testified that the RCMP told her the fire had started in her bedroom. Her witness Ms. K.D. testified that she thinks the tenant's boyfriend Mr. N.R. had something to do with the cause of the fire.

The tenant also testifies that the neighbour's shed was too close to her yard and prevented her from using an emergency exit door in her manufactured home.

The tenant also states that the landlord had moved a travel trailer belonging to her to a corner of the park and charged her \$50.00 per month to store it there. She wants to recover that expense.

Additionally, the tenant testifies about the drunkenness, drug use, fighting and partying she has had to put up with in the park. She says that there was so much dog feces on the property and because there was marijuana hanging from the neighbour's fence, the government would not let her have care of her two youngest children there. She seeks compensation for all that.

The landlord denies causing the fire. Ms. C.D. and states that the fire started in the back bedroom of the tenant's home. The neighbour Mr. G.M. agrees. He was first on the scene and assisted in attempting to douse the fire. He testifies that after the fire he saw an electrical space heater under a mattress and he thinks the tenant herself started the fire.

Mr. G.M. and his ex-partner Ms. S.W. deny the shop in question was anything but a shop containing tools and belongings.

Analysis

The evidence presented during this hearing does not permit a fair, fact based determination of the cause of the fire. Both sides speculate. Speculation is not enough to prove a fact. Neither party produced any professional opinion about the cause of the fire. Short of eye witness testimony, such evidence would be necessary in my view.

I discount the testimony of Mr. G.M. in regard to the heater and the mattress. He has had repeated conflict with this tenant in the past and his testimony must be viewed with caution.

Lacking convincing evidence about the cause of the fire I dismiss both sides' claims for loss resulting from it.

I dismiss the tenant's claim for recovery of the storage fee for her trailer. The fact that she paid storage fees is convincing evidence of an agreement to do so. She may not have liked that agreement however it was the arrangement the parties came to. She could have removed the trailer to somewhere else.

I dismiss the tenant's claim for interference and disruption from other tenants in the park. The tenant's evidence was very general, not referring to any particular incidents on any particular dates, nor is there evidence that she made a complaint to the landlord about any incident. In the face of the landlord's denial, this claim has not been proved on a balance or probabilities.

I dismiss the tenant's claim regarding the refusal of the government to permit her care of her children on the property. This issue appears to have occurred long in the past in this five year relationship. Most important, there was no evidence from the government to show that the tenant had been refused visitation or the reasons for that refusal. I decline to accept the tenant's evidence as sole proof of this allegation. Rebuttal evidence to such a claim is not realistically available to the landlord due to privacy issues. The government would release such information only to the tenant. It is her obligation to acquire it and produce it.

Whether or not the neighbour's shed was too close or blocked an emergency exit is a question that is, at this point, moot. No particular loss or expense was associated with the allegation.

I dismiss the landlord's claim for damages related to the fire because there is not convincing proof of its cause.

The landlord's application includes a claim for rent however its monetary order worksheet discloses not such claim. I dismiss that claim.

The landlord claims recover of \$50.00 per month for storage of the trailer. In my view the tenancy ended in April with the fire. The storage agreement was related to the tenancy and, I find, it too ended. The tenant is responsible for removal of the trailer and, if she fails to do so within a reasonable time after this decision or if she fails to make some agreement with the landlord for its continued storage, then the landlord is free to determine that the tenant has abandoned it and take appropriate steps.

The landlord's claim for slander is, in my view, outside the jurisdiction of a Residential Tenancy arbitrator. The landlord must seek relief in the courts.

Conclusion

Both applications are dismissed.

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: November 03, 2017

Residential Tenancy Branch