



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *RP, FF*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Manufactured Home Park Tenancy Act*. The tenant applied for an order seeking landlord's action to conduct repairs. The tenant also applied for the recovery of the filing fee.

The tenant testified that the notice of hearing and evidence package was served on the landlord on September 11, 2018, by registered mail. The tenant provided a tracking number. The tenant also testified that she had received the evidence package of the landlord. Despite having been served the notice of hearing and responding to the tenant's evidence, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord negligent in maintaining the Home Park?

Background and Evidence

The rental unit is a pad in a mobile home park. The tenant moved in in September 2017 and pays a pad rent of \$405.00 on the first of each month. A copy of the tenancy agreement and addendum were filed into evidence and the tenant agreed that maintenance of the yard was her responsibility.

The tenant testified the sometime prior to May 2018 a sink hole appeared by the shed in her yard. The landlord offered to assist the tenant by filling the sink hole. The tenant was away at the time the work was carried out. The tenant stated that the sink hole was filled by a contractor who drove onto the yard and left tire ruts in the ground. In addition the tenant testified that the contractor filled the sink hole with the wrong material and also spread sand in the yard. As a result grass will not grow in these areas worked on by the contractor.

The tenant stated that she has not had a proper yard since May 2018, when this work was carried out. The tenant has filed photographs of the yard that depict areas near the shed and in other parts of the yard that have patches without grass. The tenant requested the landlord to fix the problem and she declined.

The tenant is requesting that the landlord undo the work that the contractor carried out which would mean removing the material used to fill the sink hole, remove sand that was spread in other areas of the yard and fill the ruts. The tenant would like to have this done by spring 2019.

Analysis

Based on the sworn testimony of the tenant and in the absence of contradictory evidence, I find that the tenant is responsible for the maintenance of the yard. I further find that the landlord made a gratuitous gesture and offered to fill the sink hole in the yard. However this work was not carried out to the satisfaction of the tenant and the tenant wants the yard to be restored to the condition it was prior to the work.

Accordingly I order the landlord to excavate and remove the fill that was deposited into the sink hole, remove sand that was spread over the grass and repair the tire rut marks in the yard. The landlord must have this work completed by spring of 2019.

Since the tenant is successful in her application, I award her the filing fee of \$100.00. The tenant may make a one-time deduction of \$100.00 from a future rent.

Conclusion

The landlord is ordered to carry out the work in the tenant's yard as specified above.

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 22, 2018

Residential Tenancy Branch