



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OLC, ERP, 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 directing the landlord to comply with the *Act*, to carry out repairs and for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant represented herself. The landlord was represented by their agent.

As both parties were in attendance I confirmed service of documents. The landlord confirmed receipt of the tenant's application for dispute resolution and evidence. The landlord said that he had not submitted any evidence of his own. I find that the landlord was served with the tenant's materials in accordance with sections 88 and 89 of the *Act*.

Issues to be decided

Is the landlord diligent with regard to the maintenance of trees on his property? Is the tenant entitled to the filing fee?

Background and Evidence

The parties agreed that the tenancy started in August 1991. In the winter of 2017, there was a severe ice storm and a tree branch fell on the tenant's property causing a considerable amount of damage.

The tenant testified that she fears for her safety in the coming winter months. The tenant stated that the trees surrounding her property have been maintained in such a way that branches on one side of the trees have been trimmed and as a result the trees may topple over in extreme weather and cause damage to her property.

The tenant stated that she fears for her personal safety as during the prior incident the branch fell within two feet of her. The tenant stated that she requested the landlord to remove the trees that were likely to topple over and the landlord did not take action. On September 24, 2018 the tenant made a written request to the landlord to remove trees that posed a threat to the tenant's safety.

The tenant stated that as of October 15, 2018 no action was taken and therefore she made this application. During the hearing both parties turned their minds to compromise and achieved a resolution of their dispute.

Analysis

Pursuant to Section 56 of the *Manufactured home Park Tenancy Act*, the Arbitrator may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties confirmed that they had reached an agreement to settle these matters on the following terms:

1. The landlord agreed to hire an arborist to assess trees on the landlord's property and the danger they pose to the tenant in extreme weather conditions.
2. The landlord agreed to hire the arborist at his own cost and to provide a copy of the arborist's report to the tenant as soon as it became available.
3. The landlord agreed to act on the recommendations of the arborist and have all work completed by November 28, 2018.
4. The parties stated that that they understood and agreed that the above particulars are binding.
5. The parties agreed to exercise any additional goodwill and spirit of cooperation necessary in regard to the above undertakings, which might be required to achieve a positive landlord – tenant relationship.

The tenant and the landlord have reached a settled agreement, as recorded above. This settlement agreement was reached in accordance with Section 56 of the *Manufactured home Park Tenancy Act*. The parties are bound by the terms of this agreement, as well as by the terms of their tenancy agreement and the *Act*. Should either party violate the terms of this settled agreement, the tenancy agreement or the *Act*, it is open to the other party to take steps under the *Act* to seek remedy.

Since the tenant was forced to make this application to get the landlord to assess the trees I award the tenant the recovery of the filing fee. The tenant may make a one-time deduction of \$100.00 off a future rent.

Conclusion

The landlord will hire an arborist and take recommended action by November 28, 2018.

The tenant may make a one-time deduction of \$100.00 from a future rent.

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: November 15, 2018

Residential Tenancy Branch