



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RIVERDALE TRAILER PARK  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC OT RP RR

### Introduction

In this dispute, the tenant seeks the following relief under the *Manufactured Home Park Tenancy Act* (the “Act”):

1. an order that the landlord comply with the Act, the *Manufactured Home Park Tenancy Regulation*, or the tenancy agreement, pursuant to section 55 of the Act;
2. an order for regular repairs, pursuant to sections 26 and 55(3) of the Act, or, that the tenant be reimbursed in the amount of \$600.00; and,
3. an order to reduce rent in the amount of \$100.00 for repairs, services, or facilities agreed upon but not provided, pursuant to section 58 of the Act.

The tenant applied for dispute resolution on May 13, 2019 and a dispute resolution hearing was held on June 10, 2019. The tenant, and two representatives for the landlord, attended the hearing and they were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The parties did not raise any issues with respect to service.

I reviewed evidence submitted that met the *Rules of Procedure*, under the Act, and to which I was referred, but have only considered evidence relevant to the issues of this application.

### Issues to be Decided

Whether the tenant is entitled to orders under sections 55, 26, and 58 of the Act.

### Background and Evidence

The tenant testified that there was an order issued by a previous arbitrator in 2017 by which the landlord was supposed to take care of a tree on the property. The tree is a large spruce, and its ground-level roots impede access to the home, as the tenant uses a mobility scooter. The tenant is able to navigate around the roots, but cannot do so as the spruce's large, hanging tree limbs prevent passage. Indeed, they could potentially tear the canopy off of the scooter.

The tenant has had no contact with the landlord since 2018, when the landlord's representative contacted her in order to have an arborist come and look at the tree. The arborist came and gave a quote or estimate to the landlord representative.

Submitted into evidence by the tenant was an assessment by an arborist, along with a copy of a settlement agreement order and a photograph of the tree, its roots, and the tenant's scooter.

The representative (who attended the hearing), testified that he obtained the arborist's report in July 2018 and then "passed it along" to his employer (the landlord), but apparently nothing got taken care of. He went on to say that his goal was to improve communication between the landlord and the tenant.

The parties testified and disputed about what the landlord's obligations were in respect of the tree, and both parties referred to the tenancy agreement. I was unable to view the tenancy agreement that the tenant said was in the previous dispute resolution file (given that it appears to be a "paper" file from 2017, of which I do not have access).

The landlord's representatives said that trees were not really their responsibility, while the tenant argued that the trees were their responsibility.

In closing submissions, the tenant said that she just wants someone to "get the work done" in regard to the tree: she wants the low hanging branches removed or trimmed in a manner that allows her to move the scooter around.

The landlord's representative closed by saying that they simply want to "try to find an amicable solution" and that the low branches could be taken care of.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

In this case, the tenant claims that the landlord is obligated to take care of the tree. The landlord, while disputing their responsibility generally regarding the tree, did say that taking care of the branches should not be a problem.

Section 26(1) of the Act states that a landlord “must (a) provide and maintain the manufactured home park in a reasonable state of repair, and (b) comply with housing, health and safety standards required by law.”

In the absence of a written tenancy agreement, I must defer to *Residential Tenancy Policy Guideline 1. Landlord & Tenant – Responsibility for Residential Premises*, which clarifies (on page 7) that “The landlord is generally responsible for major projects, such as tree cutting, pruning and insect control.”

As such, in the absence of anything contrary to this policy, I find that the landlord is responsible for cutting and pruning the spruce tree that currently impedes the tenant’s access.

Accordingly, pursuant to sections 26 and 55 of the Act, I order that the landlord must (A) retain the services of an arborist as soon as reasonably possible and in no event later than July 10, 2019, and (B) contract the arborist to remove any branches that impede the tenant’s access and that this work be completed no later than July 31, 2019.

Given that the landlord failed to take previous steps in dealing with the tree (the landlord’s representative testified that he passed along a report to his employer but that they failed to take any action) in almost a year, I find that the tenant is entitled to a one-time reduction in rent as claimed, in the amount of \$100.00, under section 58 of the Act. I order that the tenant may deduct \$100.00 from pad rent for July or August 2019.

Should the landlord fail to complete the work as ordered above the tenant is at liberty to reapply for dispute resolution for an additional reduction in rent. That having been said, the landlord’s representative (“N.A.”) presented himself as a person who genuinely wants to improve communication between the parties, and that is to be commended.

Conclusion

I order that the landlord comply with section 26 of the Act as specified above.

I grant the tenant a one-time rent reduction in the amount of \$100.00 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 Act.

Dated: June 10, 2019

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Residential Tenancy Branch