



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1022180 BC LTD DBA SPIRAL MANUFACTURED HOME PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFT MNDCT RR

Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- A monetary award for damages or loss pursuant to section 60;
- A retroactive reduction in rent pursuant to section 58; and
- Recovery of the filing fee from the landlord pursuant to section 65.

Both parties attended and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agents. The agent SK (the "landlord") primarily spoke on behalf of the landlord.

As both parties were present service of documents was confirmed. The parties each confirmed receipt of the other's materials. Based on the testimonies I find that all documents was served on the respective party in accordance with the *Act*.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

Is the tenant entitled to a retroactive reduction in rent?

Is the tenant entitled to recover the filing fee from the landlord?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This tenancy began in April, 2015. The current monthly rent is \$662.00. The tenant said they chose to rent the particular location in the park as it was near the common playground area and believed it would be beneficial for eventual resale.

In September 2017 the landlord began construction in the park removing the common playground area and creating six new spaces for manufactured homes. The tenant said that this work was implemented without consultation with park residents, sufficient notice or consideration for the neighbouring residents. The tenant submits that during the construction work they suffered loss of quiet enjoyment. The tenant said that two manufactured homes were transported during the night interfering with their sleep. The tenant also submits that the contractors trespassed onto her property during the work and used her utilities without authorization.

The tenant submits that as a result of the construction placing new manufactured homes in the park, there has been a significant loss of quiet enjoyment. The tenant submits that the new manufactured homes are placed too close to her home causing a loss of privacy. The tenant submitted various photographs of the area as evidence of the loss of privacy.

The tenant seeks a retroactive rent reduction for the total sum of \$5,520.00 for the loss of the common playground and the loss of privacy caused by the new neighboring manufactured homes. The tenant seeks a monetary award of \$12,000.00 for the loss of value of her home. The tenant confirmed that she has not yet sold the manufactured home and has not suffered any loss as of the date of the hearing but has been informed by realtors of the potential decline in the value should she place the home on the market.

Analysis

Section 60 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. This provision is also

read in conjunction with paragraph 58 (1)(f) of the *Act*, which allows me to reduce the past rent by an amount equivalent to the reduction in value of a tenancy agreement.

I find that the tenant has failed to establish their claim on a balance of probabilities. I find the tenant's suggestion of an appropriate monetary award to be wholly unreasonable and not supported in the evidentiary materials. I find that the tenant has provided no evidence that they, or any guests, made use of the common playground area while it existed. Furthermore, the common area is not a service or facility explicitly provided under the tenancy agreement and I find that there is no obligation on the landlord to ensure that a playground is provided or that the playground remain situated at the same location in the park adjacent to the tenant's lot.

I find that there is little evidence supporting the tenant's submission that there was trespass and interference with their right to quiet enjoyment during the months of construction in September and October, 2017. I find that the tenant's evidence consists of subjective complaints and do not find that there is indication that the construction was protracted or unreasonable under the circumstances.

The photographs submitted into evidence by the tenant shows the proximity of the neighboring manufactured home. While the tenant relies upon the photographs as evidence of loss of privacy I do not find that the distance shown or the view to be unreasonable. In a multi-unit park it is reasonable to expect that neighboring units will be placed in close proximity. I do not find the tenant's submission that there is a loss of privacy due to the placement to be reasonable or borne out in the evidence.

I find that the tenant has not yet sold their manufactured home and thus have not suffered any loss in its value. The opinion provided by a realtor is of little assistance for a hypothetical sale that has not occurred. Furthermore, I find that the landlord cannot be held liable for the fluctuations in the value of property. There is no obligation under the *Act*, regulations, or tenancy agreement for a landlord to maintain the park in a manner that guarantees a tenant's property value. I find that the tenant's claim for such a monetary award to not be supported in legislation and frivolous.

For the above reasons the tenant's application is dismissed in its entirety.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

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: July 15, 2019

Residential Tenancy Branch