



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC RP

Introduction

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

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 55; and
- an order to the landlord to make repairs to the rental unit pursuant to section 26.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

As both parties were present service was confirmed. Based on the testimonies of the parties I find each party was served with the respective materials in accordance with the *Act*.

Issue(s) to be Decided

Should the landlord be ordered to make repairs?

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Background and Evidence

There was a previous hearing of this matter under the file number on the first page of this decision on October 9, 2018. The earlier hearing was for identical relief in part, seeking that the landlord make repairs. The tenants said that as they were unsuccessful in their earlier hearing they have filed the present application intending to provide additional evidence in support of their claim. The tenants have also added a

new head of claim for the landlord to comply but testified that the underlying issue is the same as in the earlier hearing. The tenants' earlier application was dismissed.

The tenants complained of cracks in the foundation of their lot pad and said that people often trip and have a difficult time maneuvering on the property. The tenants did not provide any documentary evidence in support of their current application.

The parties said that they had been negotiating a settlement prior to the hearing. While the landlord indicated they were still open to negotiations the tenant refused to negotiate at the hearing.

Analysis

The principles of *Res judicata* prevents the rehearing of an issue on which a previous binding decision has been made involving the same parties.

By the tenants own testimony the present application is an attempt to have issues identical to the earlier hearing of October 9, 2018 re-heard and re-adjudicated. The tenants confirmed that the issues are identical and that, while a new head of claim seeking the landlord comply was added, the underlying issue seeking repairs is the same.

I find that the subject matter of this application has been conclusively determined in the decision dated October 10, 2018. I find that the earlier decision was final and binding. Furthermore, the parties to the present application are the same as those for the earlier hearing.

In any event, the tenants have provided no documentary evidence or cogent submissions in support of their present application. Nor have they articulated any difference from the earlier application.

For these reasons I find that this matter is *res judicata* as the matter has already been conclusively decided and cannot be decided again. I dismiss the application in its entirety without leave to reapply.

Conclusion

The tenants' application is dismissed 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 *Residential Tenancy Act*.

Dated: April 20, 2020

Residential Tenancy Branch