



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regar Fernanda Ganahad
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, RP FFT

Introduction

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

- order for the landlord to comply with the *Act*, regulation, and/or the tenancy agreement pursuant to section 55(3) of the *Act*.
- order for regular repairs pursuant to sections 26(5) and 55 of the *Act*.
- application for recovery of the filing fee pursuant to section 65(1) of the *Act*.

The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant testified the landlord was served the Notice of Dispute Resolution together with the evidentiary package via Canada Post registered mail on June 12, 2020. I find that this satisfied the service requirements in sections 81 and 83. I find the landlord was deemed to have received the documents on June 17, 2020. Canada Post tracking number is listed on the first page of this decision.

The landlord did not appear at the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional ten minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct call-in number and participant codes for the landlord had been provided.

Rule of Procedure 7.3 states:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the Arbitrator may conduct the Dispute Resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply. I proceeded with the hearing.

Issues to be Decided

Is the tenant entitled to an order for the landlord to comply with the *Act*, regulation, and/or the tenancy agreement pursuant to section 55(3) of the *Act*?

Is the tenant entitled to an order for regular repairs pursuant to sections 26(5) and 55 of the *Act*?

Is the tenant entitled to the recovery of the filing fee pursuant to section 65(1) of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the tenant not all details of his respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

This manufactured home tenancy began July 02, 2017. The tenant owns the mobile home and affirmed that he rents the pad for \$420.00 per month.

The tenant affirmed that he has lived in the trailer park since 2017 and has had issues with the landlord in relation to the parking due to the trees on his pad.

The tenant affirmed he had cut down one of the trees adjacent to his trailer pad as the leaves and stumps were creating a nuisance. The tenant argued that the leaves were creating a mess on his car, mobile home and pad.

The tenant affirmed according to the rules and regulations of the Trailer park, it was his responsibility to cut the grass, trim the trees and remove any debris surrounding the mobile home. The tenant reaffirmed that he wished to cut the trees completely down to the stumps, but the landlord is refusing him to do so.

The landlord did not attend the hearing but there is a letter submitted in evidence by the tenant dated November 21, 2018 from the landlord advising the tenant to refrain from cutting trees of other pad owners. It states that the tenant entered lot 4 of another pad holder to cut down the trees without the pad owner or landlord's permission.

The tenant provided testimony that the landlord is arguing that he is not allowed to cut down the trees due to the local municipal bylaws. In the evidence submitted rule 7 of the

regulations states that it is the pad owner's responsibility to maintain the yard and ensure the grass is maintained.

Analysis

I have noted the Landlord's Trailer Park rules and Regulations and I am satisfied that the landlord has not breached section 26 of the *Act*.

Landlord and tenant obligations to repair and maintain

26 (1)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.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the manufactured home site and in common areas.

(3) A tenant must repair damage to the manufactured home site or common areas that is caused by the actions or neglect of the tenant or a person permitted in the manufactured home park by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord is not required to maintain or repair improvements made to a manufactured home site by a tenant occupying the site, or the assignee of the tenant, unless the obligation to do so is a term of their tenancy agreement.

(6) A landlord's obligations under subsection (1) (b) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

The issue in this case is whether the landlord was aware of an interference or unreasonable disturbance but failed to take reasonable steps to correct these. I find that the landlord has acted reasonably and has not prevented the tenant from trimming the trees. Based on a review of all the evidence and testimony from the tenant. I am satisfied that the landlord took reasonable steps to mitigate and address the tenant's concerns regarding the trees in the pad.

I note the letter filed in evidence by the tenant from the landlord's Solicitors BJC on May 03, 2019 stating that the tenant is not allowed to cut the trees and a further letter dated

from the landlord dated November 21, 2018 informing the tenant is not allowed to cut the trees to the stump on his pad and other neighbouring lots.

The landlord has provided permission to tenants to “trim the trees” which I find is sufficient. The tenant’s access to his mobile home or his car is not blocked by the trees and I am unable to render a decision contrary to local municipal bylaws relating to trees.

55 (1) The director has authority to determine

- (a) disputes in relation to which the director has accepted an application for dispute resolution, and
- (b) any matters related to that dispute that arise under this Act or a tenancy agreement.

(2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.

(3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement.

(4) The director may dismiss all or part of an application for dispute resolution if

- (a) there are no reasonable grounds for the application or part,**
- (b) the application or part does not disclose a dispute that may be determined under this Part, or
- (c) the application or part is frivolous or an abuse of the dispute resolution process.

I find that there are no reasonable grounds for this application. The tenant has not provided sufficient evidence in relation to the trees or that the landlord has failed to take reasonable steps or to respond to his complaints. I find the tenant has failed to meet the burden of proof, consequently, I dismiss the tenant’s application.

As the tenant has failed in his application. I decline the filing fee pursuant to section 65(1) of the Act.

Conclusion

I dismiss the tenant’s Application for Dispute Resolution, in its entirety and 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 08, 2020

Residential Tenancy Branch