



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Parklands Mobile Home Park  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant under the Residential Tenancy Act (the Act), seeking:

- An order for the Landlord to comply with the Act, regulation or tenancy agreement.

The hearing was convened by telephone conference call and was attended by the Tenant, the Tenant's Agent, and an Agent for the Landlord, all of whom provided affirmed testimony. The Landlord's Agent acknowledged receipt of the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, the Notice of Hearing, and the Tenant's documentary evidence and raised no concerns regarding service or the acceptance of the Tenant's documentary evidence for consideration. The Landlord's Agent also acknowledged that no documentary evidence had been served on the Tenant or submitted to the Residential Tenancy Branch (the Branch) for consideration at the hearing. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant and determinative facts, evidence and issues in this decision.

At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the email addresses provided in the Application.

### Preliminary Matters

In the hearing the Agent for the Landlord stated the spelling of the Landlords name as shown on the Application is incorrect and provided the correct spelling. The Application was amended accordingly.

The Agent for the Tenant was also removed as an Applicant and party to the hearing, so that the decision and any applicable orders issued would correctly name only the Tenant and the Landlord.

### Issue(s) to be Decided

- Is the Tenant entitled to an order for the Landlord to comply with the Act, regulation or tenancy agreement?

### Background and Evidence

There was no dispute between the parties that a tenancy under the Act exists between the Tenant and the Landlord.

The Tenant and their Agent stated that another tenant (J.B.) of the Manufactured Home Park (the Park) has repeatedly and unreasonably disturbed the Tenant and their guests, and that despite being aware of this, the Landlord and their agents has failed to take reasonable and appropriate action to protect the Tenant's right to quiet enjoyment. The Tenant and their Agent stated that J.B. has approached the Tenant and their guests (including the Tenant's niece, home health care workers, and other family members) on numerous occasions, both on common property and at the Tenant's manufactured home site, and shouted insults and obscenities at them as a result of a parking dispute. The Tenant and their Agent stated that J.B. believes an area of common property which is located in front of their mobile home site belongs to them, which it does not, and that when people park there, J.B. becomes upset and aggressive, shouting obscenities, threats and insults at the people who park there or the residents of the park they are visiting.

The Tenant's Agent stated that on June 11, 2020, a care aid for the Tenant parked in the disputed area and as a result, J.B. came to the Tenant's mobile home to shout insults at the Tenant and the care aid. The Tenant's agent stated that the care aid was so disturbed by the incident that they cried, and that care aids attending the Tenant's

home are now being warned by the local health authority to beware of J.B. The Tenant and their Agent submitted copies of complaint emails set to the Landlord on April 29, 2020, June 11, 2020, June 21, 2020, and July 2, 2020, regarding J.B.'s behavior as well as written statements from two family members regarding incidents with J.B. in September of 2017, February of 2018, and May of 2018. The Tenant's Agent stated that J.B. has also been previously warned by the police not to approach the Tenant or the Tenant's mobile home.

The Tenant's Agent argued that the Landlord and the Landlord's Agent are fully aware of the issues with J.B. based on complaints from the Tenant as well as other residents of the park, as indicated in an email from the Landlord dated April 29, 2020, and argued that the Landlord is attempting to abdicate responsibility for the issue by making it the Tenant's responsibility to have their guests park elsewhere so as not to upset J.B.

A copy of the email was provided for my review which states in part:

*"Please be informed that this is not the first complaint regarding this matter with Mr. Boss and he has been, yet again, spoken to by myself and the Park owner. Unfortunately, Mr. Boss remains transfixed on the fact that he thinks the area parallel to his site is his parking spot. It certainly is not and anyone may park there. Perhaps, it is best if any visitors to [Tenant's name] avoid parking close to Mr. Boss's site since the Park cannot guarantee that Mr. Boss will display a change in his belief or attitude."*

As a result of the above, the Tenant sought an Order for the Landlord to comply with sections 22 (b) and 22 (d) of the Act and protect their right to quiet enjoyment of their mobile home site and common areas of the park. In support of the Application the Tenant and their Agent submitted copies of email complaints sent to the Landlord's Agent regarding J.B.'s behavior, replies to these emails from the Landlord's Agent, a timeline of events dating back to September of 2015, written witness statements and written submissions.

During the hearing the Landlord's Agent acknowledged that the Tenant is not the first resident of the park to complaint about J.B., but stated that their comment in the email dated April 29, 2020, refers only to knowledge of the parking issue, not previous complaints about J.B.'s behavior in general. The Landlord's Agent stated that although they are generally aware of the area of dispute in relation to parking, no one has specifically shown them where they are parking when J.B. gets upset, and therefore it is possible they are blocking J.B.'s driveway. The Landlord's Agent stated that there are

not parking signs of any kind in the park, which is why there are not any in this particular area, and that residents of the park and their guests could simply avoid parking in this area as it upsets J.B. and there is ample parking elsewhere. The Landlord's Agent acknowledged speaking with the Tenant regarding their behavior towards the Tenant and their guests and stated that J.B. acknowledged that they have not acted appropriately. Despite this testimony, the Landlord's Agent argued that further evidence of these issues/incidents is required prior to considering the issuance of a notice to end tenancy as they themselves have not witnessed this behaviour by J.B.

### Analysis

Although the Agent for the Landlord focussed their arguments largely on their understanding that J.B. erroneously believes a particular area of the Park is for their exclusive use, which it is not, and their position that the Tenant's guests should simply park in an alternate location to prevent further incidents, the matter before me to decide is not whether this area of the Park is or is not for the exclusive use of J.B. or whether J.B. is justified in being upset about use of this area. Instead what I must determine is whether the Tenant has been significantly disturbed by J.B.'s behavior towards them and their guests, whether the Landlord knew of these disturbances, and whether the Landlord failed to take appropriate action to stop these disturbances resulting in a breach to the Tenant's right to quiet enjoyment under section 22 of the Act.

Section 22 of the Act states that a tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the manufactured home site subject only to the landlord's right to enter the manufactured home site in accordance with section 23 [*landlord's right to enter manufactured home site restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Section 62 of the Act states that I may make any finding of fact or law that is necessary or incidental to making a decision or an order under the Act and that I may make any order necessary to give effect to the rights, obligations and prohibitions under the Act, including an order that a landlord or tenant comply with the Act, the regulations or a tenancy agreement.

Further to this, Policy Guideline #6 states that a landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected and defines a breach of the entitlement to quiet enjoyment as substantial interference with the ordinary and lawful enjoyment of the premises. Policy Guideline #6 states that this includes situations in which the landlord has directly caused the interference, as well as situations in which the landlord was aware of an interference or unreasonable disturbance, but failed to take reasonable steps to correct these. Finally, it states that a landlord can be held responsible for the actions of other tenants if it can be established that the landlord was aware of a problem and failed to take reasonable steps to correct it.

The Tenant and their Agent submitted copies of four complaints sent to the Landlord's Agent by email regarding J.B.'s behavior on April 29, 2020, June 11, 2020, June 21, 2020, and July 2, 2020. As a result, I am satisfied that the Landlord's Agent was aware of the ongoing issues between J.B. and the Tenant. Although the Landlord's Agent stated that they spoke with J.B. regarding their behavior, given the nature and frequency of J.B.'s behavior and the number of complaints received about it by the Landlord, I do not find this action sufficient.

Based on the testimony of the Tenant and the Agent in the hearing, the two witness letters, and the four complaint emails set to the Landlord since April 29, 2020, as well as the lack of evidence or argument from the Landlord's Agent that J.B. has not engaged in the alleged behavior, I am satisfied that the other tenant J.B. has engaged in activity which constitutes an unreasonable disturbance to the Tenant and/or their guests. Further to this, I am satisfied that the Landlord and or the Landlord's Agent was aware of this behavior and that they have so far failed to act reasonably and diligently in addressing it or in protecting the Tenant's right to quiet enjoyment.

Pursuant to section 62 (3) of the Act, I therefore order the Landlord to, within 30 days of the date of this decision, take reasonable and substantive steps to protect the Tenant's right to quiet enjoyment of their mobile home site, including but not limited to issuing a warning letter to J.B. regarding the above noted behaviour and advising them that any further instances of this behavior will result in immediate service of a One Month Notice to End Tenancy For Cause (One Month Notice) pursuant to section 40 (1) (c) (i) of the Act. I also order the Landlord to immediately serve and seek enforcement of a One Month Notice as stated above, if within a reasonable period of time immediately following service of the warning letter, J.B. significantly interferes with or unreasonably disturbs the Tenant.

Further to the above, I order the Landlord to, within 60 days of the date of this decision and at no cost to the Tenant:

- Clarify for the residents of the park in writing whether the disputed portion of land is common property and if so, for what purpose the residents and their guests may use this land; and
- Put up signage of their choosing which clearly denotes whether or not residents of the park and their guests may or may not park in this area.

The Landlord is cautioned that failure to comply with the Act, regulations, or this decision and orders may result in administrative penalties of up to \$5,000.00 per day pursuant to section 87.4 and/or an Application by the Tenant seeking monetary compensation from the Landlord pursuant to section 7 of the Act for the above noted breaches to their right to quiet enjoyment, as well as any future breaches, or for the Landlord's failure to comply with this decision and orders.

### Conclusion

The Tenant is successful in their Application seeking an order for the Landlord to comply with section 22 of the Act and protect their right to quiet enjoyment.

The Landlord is ordered to comply with this decision and the above noted orders relating to protection of the Tenant's right to quiet enjoyment and parking.

I believe that this decision has been rendered in compliance with the timelines set forth in section 77(1)(d) of the Act and section 25 of the Interpretation Act. In the event that this is not the case, I note that section 77(2) of the Act states that the director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30 day period in subsection (1)(d).

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: August 26, 2020