



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, RR, FFT

Introduction

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

- an order to the landlord to make repairs to the rental unit or site pursuant to section 26;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 58; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to Decide

Are the tenants entitled to an order to have the landlord conduct repairs to the unit or site?

Are the tenants entitled to a rent reduction?

Are the tenants entitled to the recovery of the filing fee for this application?

Background and Evidence

The tenants gave the following testimony. SB testified that the tenancy began on July 1, 2019 with the current monthly rent of \$380.00 due on the first of each month. SB testified that she was successful in a separate hearing that ordered that the landlord remove the retaining wall as it was encroaching on her property and leaning up against her carport. SB testified that the landlord has removed some of the retaining wall but not all of it. SB testified that she is worried about future failure of the repairs and wants the landlord to remove the entire wall. SB testified that the landlord has only sloped the dirt away from her property but has not provided proper drainage. SB testified that she is seeking an order to allow her a 50% rent reduction for each month the work isn't complete commencing on December 1, 2021. JF testified that the landlord is responsible for this work, not the tenants.

JK gave the following testimony for the landlords. JK testified that the work was completed as required and isn't sure why the tenant requested another hearing. The landlord testified that the wall in question is not part of the park infrastructure and that the tenant was well aware of that when she first rented the pad. JK testified that he hired certified professionals that have addressed the swales and runoff. JK testified that if there are any infrastructure issues with the pad, the landlord will gladly conduct those repairs but at this time feels that they have met the order issued by the previous Arbitrator as the tenants' request is for items not part of the infrastructure.

Analysis

The tenant requests that the landlord remove the entire retaining wall and to address the sloping driveway as per the previous Arbitrators order. I have reviewed the previous decision that was submitted by the tenant and confirmed by the landlord. The Order reads as follows:

“Pursuant to section 55(3) of the Act, I therefore Order the landlord to repair or remediate the retaining wall between the tenant’s site and the adjoining site so that it no longer touches the tenant’s home or encroaches on her site, on or before, March 31, 2021.”

The Order does not require that the landlord remove the entire wall, only to repair or remediate. In addition, the tenant confirmed that the landlord did conduct work to address the issue, albeit late and past the deadline. The tenant is concerned about any “future failure” of the repairs. In SB’s own testimony she acknowledged and confirmed that there hasn’t been any failure to the slope or drainage of the pad or driveway at this time. I am unable to issue an order on “hypotheticals or what ifs”. Based on the above, I find that the landlord has met the requirements of the repair order issued on March 10, 2021 and that no further repair order or compensation is required.

The tenants have not been successful in their application and are not entitled to the recovery of the filing fee.

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: October 25, 2021

Residential Tenancy Branch