



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding **W.V. INCOME PROPERTIES** and  
[tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      OLC

### Introduction

On August 19, 2021, the Tenant made an Application for Dispute Resolution seeking an Order to comply pursuant to Section 55 of the *Manufactured Home Park Tenancy Act* (the “Act”).

The Tenant attended the hearing. As well, D.M. attended the hearing as an agent for the Landlord. D.M. advised of the correct name of the Landlord, and this correction was amended on the Style of Cause on the first page of this Decision. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could 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.

The Tenant advised that she served the Notice of Hearing package to the office of the previous property management company by hand on or around September 8, 2021. D.M. stated that she did not receive this package and only found out about the hearing from a reminder email received from the Residential Tenancy Branch. However, she advised that she was prepared to proceed regardless. As such, the hearing continued.

The Tenant advised that she did not serve her evidence to the Landlord nor did she submit it to the Residential Tenancy Branch. She then requested an adjournment citing

an illness where she has not been able to eat for the last five days. As well, she stated that numerous members of her family had contracted COVID, that she is disabled and cannot walk, that her advocate was closed, and that it is mere days before Christmas.

Rule 7.9 of the Rules of Procedure provides the applicable criteria for the granting of an adjournment. Given that the Tenant made this Application in August 2021, given that some of these issues had been only recently occurring issues, and given that the Tenant had over three months to seek assistance with this Application, I do not find that the Tenant has met any justifiable grounds for the granting of an adjournment. As such, the Tenant's request for an adjournment was denied.

D.M. advised that she served the Landlord's evidence to the Tenant by email on December 22, 2021; however, the Tenant stated that she did not receive this. As this evidence was served late and not in accordance with the *Act* or the Rules of Procedure, I have excluded all of the Landlord's evidence and will not consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. 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.

#### Issue(s) to be Decided

- Is the Tenant entitled to an Order to comply?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on June 1, 2019, that rent was currently established at an amount of \$625.00 per month, and that it was due on the first day of each month.

The Tenant advised that the Landlord had trimmed the trees in the front of her site and that was fine. However, she stated that there were some trees which prevented her from accessing her manufactured home, and that the neighbour's trees in her backyard cause damage to the roof of her home and drop pinecones everywhere. She then stated that none of the trees in the park have been trimmed and that the *Act* requires the Landlord to maintain these; however, she could not point to the specific Section of the *Act* that supports her position.

D.M. requested multiple times that the Tenant explicitly direct her to which trees were problematic as it was her belief that the Landlord already had extensive tree maintenance conducted. However, the Tenant was unable to clearly indicate which trees were the problem. D.M. then pointed out to the Tenant that clause 10 in the tenancy agreement requires the Tenant to be responsible for landscaping of her site, which includes trees. Despite this, she testified that the Landlord has had an arborist come onto the park, in January, March, and July 2021, to trim trees on the Tenant's site, in surrounding areas of the site, and in and around the park. She read from three invoices for this work, and she confirmed that tree maintenance has been completed by the Landlord.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

I find it important to note that when two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. In the case before me, I do not find that the Tenant has submitted sufficient evidence to support her allegation that the Landlord has not maintained the trees in the park as she alleges. Furthermore, while the Landlord's evidence could not be considered, it is D.M.'s submissions that despite the Tenant being responsible for landscaping of her own site, the Landlord has taken steps to maintain trees in the Tenant's site, as well as trees around the site and in the park. Moreover, as the Tenant acknowledged that the Landlord had undertaken some work trimming trees in and around the park, including in front of her site, I find that this supports D.M.'s submissions that this work was more likely than not conducted.

Given that I am not satisfied that the Tenant has sufficiently supported her claims, I dismiss her Application without leave to reapply.

Conclusion

The Tenant's Application for Dispute Resolution 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 *Manufactured Home Park Tenancy Act*.

Dated: December 23, 2021

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Residential Tenancy Branch