



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 419710 B.C. LTD dba Silver Ridge
Estate and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking a monetary order for money owed or compensation for damage or loss under the *Manufactured Home Park Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

Both tenants attended the hearing with an agent. An agent for the landlord also attended and gave affirmed testimony. The tenants' agent and one of the tenants each gave affirmed testimony, and the parties were given the opportunity to question each other and to give submissions.

The tenants' agent advised that all evidence has been provided to the landlord, which was not disputed by the landlord. The landlord has not provided any evidentiary material, and all of the tenants' evidence has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for moving expenses?

Background and Evidence

The tenants' agent testified that this tenancy began in or about April, 2008 and ended on July 1, 2021. Rent in the amount of \$500.69 was payable on the 1st day of each month and there are no rental arrears.

The tenants endured harassment by the owner and manager of the manufactured home park for several years, and it became so toxic, including 2 unfair eviction notices, that it started to affect the tenants who are in their mid and late 70's and officially disabled. A copy of a letter from a physician has been provided for this hearing stating that the situation at the manufactured home park negatively and seriously affected the health of the tenants. It is dated July 14, 2021 and also states that the tenant had been a patient of the doctor for many years, and over the last couple of years consulted the doctor on several occasions regarding unpleasant situations concerning the park where the tenants had been living for about 30 years. It also states that the untruths and threatening the tenants has escalated into a situation where the tenants are fearful for their lives. It also states that according to the tenant, the landlord has threatened the tenants several times by eviction after making false accusations, and on occasion threatened and humiliated the tenant by saying things with a strong sexual connotation and addressed the tenant in a manner indicative of very poor taste. It also states that the tenants are both extremely distraught and their health and lives are very negatively influenced by the amount of anxiety and stress they have had to endure on a daily interval. The tenants bought a new home in a new park free from harassment.

On July 23, 2021 a hearing was held wherein the tenants had applied for reimbursement of rent during the harassment and terror caused by the landlord. While awaiting the hearing, the tenants concluded that they should relocate. I referred to the Decision during the hearing, which ordered the landlord to repay \$1,314.18.

The tenants had a hard time selling the manufactured home, and had 3 potential buyers, 2 of whom walked away due to how they were treated by the manager. The landlord was not willing to communicate with one and insisted on meeting the person during COVID, and the husband was out of country for work. The tenants' agent is not certain of the reason the 2nd potential purchaser walked away, but there were several issues. The 3rd person purchased but had some difficulty because the landlord made a rule during the purchase transaction that tenants had to be over 45 years old, which was not in the Rules of Park previously, and the landlord wanted to increase the rent. The tenants' agent contacted the landlord about the sale, but the landlord was rude and hung up on the tenants' agent twice without hearing anything he had to say.

The tenants have also provided a copy of a notice given by the landlord in March 2020 stating that fines would be levied if tenants' water and plumbing systems were not in good condition.

One of the tenants slid into depression and was on the verge of a breakdown, and the only alternative was to move to a different park; the tenants were forced to move and the landlord should be responsible for the cost of relocation. If the landlord had just let the tenants be and live without harassment, the tenants would not have incurred the costs of moving.

The tenants have provided a Monetary Order Worksheet setting out the following claims, totalling \$147,084.00:

- \$25.00 for a photographer for the advertisement;
- \$105.00 for advertising on Realtor.ca through ListedBySeller;
- \$4,922.00 for realtor fees;
- \$1,024.00 for Notary fees;
- \$200.00 additional compensation for the buyer;
- \$25,000.00 for the balance on purchasing a new home after the sale;
- \$200.00 for packing materials;
- \$163.00 for a moving truck rental;
- \$310.00 for helpers to move;
- \$1,779.00 for 2 senior toilets upgraded;
- \$2,128.00 for laundry appliances;
- \$1,500.00 for a canopy over the front entrance;
- \$1,750.00 for a new window in the ensuite bathroom
- \$27,033.00 estimated for a sunroom addition with flooring;
- \$705.00 for a drinking water filtration system;
- \$2,000.00 for miscellaneous home improvements, including light fixtures, window coverings and ceiling fans;
- \$7,500.00 for landscaping;
- \$18,953 for an additional monthly pad rent of \$49.31 per month for 25 years with a 2% annual increase;
- \$26,745.00 for additional home insurance premiums at \$49.31 per month over 25 years with a 2% annual increase;
- \$25,042.00 for financing interest for \$70,000.00 @ 4.29%, amortized over 15 years.

The tenants sold using Realtor.ca, and had to pay \$105.00; the purchaser came with a buying relator. No receipts have been provided for this hearing.

The claim of \$200.00 for additional compensation was given to the purchaser to close the deal because the landlord increased the rent by \$100.00 per month, which affected the buyers' ability to get the mortgage.

The home the tenants purchased was \$25,000.00 more than what they sold the manufactured home for. Also, due to mobility issues, the tenants needed to replace toilets in their new home, bringing them higher, and the new home did not come with appliances or a canopy over front entrance, which was required by the tenants, and there was one on the home that they sold.

The window in the bathroom of the new home was not existent and the old home did have a window in the bathroom, as well as with the sunroom.

The tenants are sensitive to drinking water and needed a new system that purifies the water. It was a new house they bought. No receipts for miscellaneous improvements or landscaping have been provided for this hearing.

The tenants were paying just over \$500.00 per month and their new place is \$550.00 per month being \$49.31 more.

The new house is in a more rural setting and insurance premiums are higher by \$835.00 per year than before.

The previous home was paid off, and the new home has financing interest of 4.29% amortized over 15 years.

By being hostile and unwilling to communicate, 2 prospective purchasers walked away who had agreed to a higher amount in the sale, so the landlord negatively affected the sale and gave the tenants a hard time by attempting to enforce rules that didn't exist. The landlord jeopardized the sale to the point that it affected the tenants' ability to sell.

The tenant testified that due to harassment by the landlord the tenants decided to leave the park and claim the amount of costs. It is not possible to take the home to another park. The tenants never found an empty spot to move to and their only option was to purchase a new one.

The fire hydrant is more than 300 meters from the new home and insurance is about \$850.00 more than in the previous home.

The landlord's agent testified that there was no evidence stating that the landlord made the tenants move; it was a choice on their part. No one made them move out.

Further, the tenants made more money selling than they purchased the previous home for.

One of the tenants used to have a portion of the job that the landlord's agent now has, but was let go and has been upset about that because the tenants were getting rent reductions and have a vendetta against the landlord's agent. The landlord should not be liable for moving costs.

The landlord's agent also referred to the Decision of the director in the previous hearing and testified that there have been several hearings. Six points were made by the last Arbitrator who made a ruling for the amount of \$1,350.00 which the landlord paid. Everything was heard then in July, and there is no evidence of any damage or loss suffered in between.

SUBMISSIONS OF THE TENANTS' AGENT:

It is undisputed and confirmed in the previous hearing that the tenants had been treated differently than other tenants with harassment, and regardless of the landlord's lies, relocation was the only option that the tenants were left with. The landlord targeted the tenants to get rid of them so a new tenant would move in and rent could be increased. There have been many, many hearings, all to do with how tenants are treated in the park.

SUBMISSIONS OF THE LANDLORD'S AGENT:

None

Analysis

Firstly, a landlord may not levy any fines against a tenant for any reason.

The landlord's position is that in a previous hearing, the landlord was ordered to pay \$1,314.18 for the tenants' loss of quiet enjoyment, and this is a duplicate claim. I have reviewed the Decision of the director dated August 23, 2021, which also references 4 other Dispute Resolution Hearings. The Decision states that the Arbitrator found that the tenants had suffered a loss in the enjoyment of an included facility by the landlord arbitrarily restricting and denying the facility and was highhanded and unfair and in breach of the tenants' rights under Section 22 of the *Manufactured Home Park Tenancy Act*. A rent reduction of 50% for 3 months amounting to \$714.18 was ordered. The Decision also found that the landlord's actions had significantly impacted the tenants' right to quiet enjoyment during the tenancy and nominal damages for that breach were ordered in the amount of \$500.00.

This application is not an application for aggravated damages or for loss of quiet enjoyment, but for moving expenses that the tenants claim would not have been incurred by the tenants if the landlord had complied with the law. Therefore, I find that it is not a duplicate claim as suggested by the landlord.

In order to be successful in a claim for damage or loss, the onus is on the tenants to satisfy the 4-part test:

1. that the damage or loss exists;
2. that the damage or loss exists because of the landlord's failure to comply with the *Manufactured Home Park Tenancy Act* or the tenancy agreement;
3. the amount of such damage or loss; and
4. what efforts the tenants made to mitigate any damage or loss suffered.

There is no question that the tenants suffered costs related to moving, which required selling the manufactured home and purchasing another in a different park. The landlord testified that no one made the tenants move out, however the letter from the tenants' physician and testimony of the tenants' agent are quite telling.

It's also clear that the Arbitrator from the previous hearing was quite satisfied that the landlord harassed the tenants, and I find that the harassment resulted in the tenants having to sell and re-purchase another manufactured home and move out of the park for their own physical and mental health.

I am also satisfied that the landlord unreasonably blocked a sale of the manufactured home by insisting on meeting a prospective purchaser during COVID restrictions and while a prospective purchaser was working out of the country. I also accept the undisputed testimony of the tenants' agent that the landlord made an arbitrary rule during the time the tenants' home was for sale that tenants had to be over 45 years of age. I also accept the undisputed testimony of the tenants' agent that the 2 prospective purchasers had agreed to a higher amount for the sale which was jeopardized by the landlord to the point that it affected the tenants' ability to sell.

The tenants have not provided any receipts, invoices, written estimates or tenancy agreements to satisfy element 3 in the test for damages for any of the claims set out in the Monetary Order Worksheet.

However, having found that the tenants suffered a loss as a result of the landlord's actions by repeated harassment, arbitrary rules resulting in the loss of sales, I find that

the tenants are entitled to moving expenses, equal to the equivalent of 1 month's rent payable under the tenancy agreement, being \$500.69.

Since the tenants have been partially successful with the application the tenants are also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$600.69.

This order is final and binding and may be enforced.

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: January 14, 2022

Residential Tenancy Branch