



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RP, FFT;   OLC, MNDCT, FFT

### Introduction

This hearing dealt with the tenant's first application, filed on October 23, 2021, pursuant to the *Manufactured Home Park Tenancy Act* ("Act") for:

- an order requiring the landlords to make repairs to the manufactured home park ("park"), pursuant to section 26; and
- authorization to recover the \$100.00 filing fee paid for the application, pursuant to section 65.

This hearing also dealt with the tenant's second application, filed on October 30, 2021, pursuant to the *Act* for:

- an order requiring the landlords to comply with the *Act*, *Manufactured Home Park Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 55;
- a monetary order of \$4,510.00 for compensation under the *Act*, *Regulation* or tenancy agreement, pursuant to section 60; and
- authorization to recover the \$100.00 filing fee paid for the application, pursuant to section 65.

The individual landlord JS ("landlord"), the landlords' agent NS ("landlords' agent"), and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 50 minutes.

The landlord confirmed the names and spelling for him and the landlords' agent. He stated that both he and the landlords' agent, who are brothers, had permission to represent the landlord company ("landlord company") named in both applications, as they are both directors of the company. He said that the landlord company owns the

manufactured home site ("site") and park. He confirmed the site address. He provided an email address for me to send this decision to the landlords after the hearing.

The landlord identified himself as the primary speaker for the landlords at this hearing. The landlords' agent did not testify at this hearing.

The tenant confirmed his name and spelling. He provided an email address for me to send this decision to him after the hearing.

At the outset of this hearing, I informed both parties that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure*. The landlord, the landlords' agent, and the tenant all separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and settlement processes, and potential outcomes and consequences, to both parties. Both parties had an opportunity to ask questions, which I answered. I informed both parties that I could not provide legal advice to them. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing, they wanted to settle both applications, and they did not want me to make a decision.

The landlord confirmed receipt of the tenant's two applications for dispute resolution hearing packages. In accordance with sections 82 and 83 of the *Act*, I find that the landlords were duly served with the tenant's two applications.

Both parties agreed that the tenant owns his manufactured home ("home") and rents the site in the park from the landlords. Therefore, the tenant's two applications fall within the jurisdiction of the *Act*.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's two applications to include the tenant's first full legal name (rather than just an initial) and to add the name of the landlord company as a landlord-respondent party. Both parties consented to these amendments during this hearing. I find no prejudice to either party in making these amendments.

### Preliminary Issue – Severing the Tenant's Monetary Application

At the outset of this hearing, I informed both parties that Rule 2.3 of the RTB *Rules of Procedure* allows me to sever issues that are not related to the tenant's main urgent applications.

The tenant applied for five different claims in two separate applications. At this hearing, both parties settled two of the tenant's five claims. The tenant asked that I make a decision about his two monetary claims for the filing fees, totalling \$200.00, which is contained below. Both parties were unable to settle the tenant's one remaining monetary claim for \$4,510.00, despite attempts to do so.

I informed the tenant that he was provided with a priority hearing date, due to the urgent nature of his claims for an order to comply and an order for repairs to be made. After 50 minutes in this hearing, there was insufficient time to complete a full hearing with testimony and evidence from both parties, regarding the merits of the tenant's monetary claim for \$4,510.00.

Therefore, I informed the tenant that his monetary application for \$4,510.00 was dismissed with leave to reapply. The tenant confirmed his understanding of same.

### Settlement Terms

Pursuant to section 56 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute, except for the tenant's monetary application.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, except for the tenant's monetary application:

1. Both parties agreed to meet at 4:00 p.m. on March 15, 2022, at the tenant's home at the site in the park, and that the landlord company, at its own cost, will complete the following by April 15, 2022:
  - a. Remove the exposed nails and spikes in the landscaping of two areas:
    - i. The hill going up and the back entrance/exit facing the main highway;

- ii. The small park directly opposite the tenant's home and site;
    - iii. The tenant will show the landlords the above affected areas on March 15, 2022;
  - b. Replace the street light that is burned out and located on the park property only, not public property, directly across from the tenant's home and site;
    - i. The tenant will show the landlords the above affected area on March 15, 2022;
  - c. Compose a new park map, which shows the entire park and all the homes and sites located within the park area, and ensure that the map is posted in a highly visible area at the park;
    - i. The tenant can assist the landlords with composing the above park map;
  - d. Remove the sharp edges on the chain link fence;
    - i. The tenant will show the landlords the above affected areas on March 15, 2022;
  - e. Properly mark the area of the large pothole with caution signs, cones, or other markers, so that it is visible, until the pothole is repaired by April 15, 2022;
    - i. The landlords are aware of where the pothole is located in the park;
2. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his two applications at this hearing, except for his monetary application.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties, except for the tenant's monetary application. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute, except for the tenant's monetary application.

During this hearing, I repeatedly confirmed the above settlement terms with both parties. Both parties repeatedly affirmed, under oath, that they were voluntarily agreeing to the above settlement terms, and they understood they were legal, binding, and enforceable. Both parties repeatedly affirmed, under oath, that they agreed and understood that they could not change the settlement terms after the hearing was over and they knew it was a full and final settlement of the tenant's two applications, except for the tenant's monetary application.

The tenant was given ample time to think about, discuss, and review the terms of this settlement during this hearing. The tenant confirmed that he spoke with a lawyer prior to this hearing. I repeatedly informed the tenant during this hearing, that I could not provide legal advice to him.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 50-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. Both parties affirmed under oath that they fully understood the above settlement terms and were agreeable to them.

### Filing Fees

The tenant stated that he did not want to settle his claims to recover the two filing fees paid for both applications, totalling \$200.00. He asked that I make a decision about them.

The filing fee is a discretionary award usually issued by an Arbitrator after an applicant party is successful on the merits of their application, after a full hearing is conducted and a decision is made. Both parties settled both applications, and I was not required to conduct a full hearing or make a decision on the merits of the tenant's two applications.

I also find that the tenant was not required to file two separate applications, rather than one application with an amendment to add additional claims. The tenant claimed that he was told that his first application was cancelled, and he should file a separate monetary application. However, the tenant still pursued his first application at this hearing, for the repairs and the filing fee, as noted above, so his first application was not cancelled. The tenant's second application was not only for a monetary claim, but also for an order to comply, which was for the same repair orders as requested in the tenant's first application.

Accordingly, I dismiss the tenant's two applications to recover both \$100.00 filing fees, totalling \$200.00, without leave to reapply.

### Conclusion

I order both parties to comply with all of the above settlement terms.

The tenant's application for a monetary order for compensation of \$4,510.00 under the *Act, Regulation* or tenancy agreement, is dismissed with leave to reapply.

The tenant's two applications to recover the two filing fees, totalling \$200.00, 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: March 01, 2022

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Residential Tenancy Branch