



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 312280 BC LTD. (dba Rugged Mountain Mobile Home Park) and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      RR, RP, PSF, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Manufactured Home Park Tenancy Act* ("Act"), for an Order to reduce the rent by \$302.00 for repairs, services or facilities agreed upon, but not provided; for an Order for repairs to the unit or property, having contacted the landlord in writing to make repairs, but they have not been completed; for an order to provide services or facilities required by the tenancy agreement or law; and to recover the \$100.00 cost of her Application filing fee.

The Tenant and an agent for the Landlord, J.M. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it.

During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

We reviewed service of the Notice of Hearing documents, evidentiary submissions by the Tenant to the Landlord, and service of the Landlord's evidentiary documents to the Tenant. The Agent said that the Landlord had received the Tenant's Notice of Hearing documents and evidence. However, the Tenant said that she did not receive the Landlord's registered mail packages, for which the Agent had provided Canada Post tracking numbers. However, in the hearing, the Tenant said that she would rather proceed with the hearing, rather than adjourn for service of the Landlord's evidence. I

also find that the Landlord followed the Act in serving their evidentiary submissions. As such, and with the Tenant's permission, I will consider the Landlord's evidence.

### Preliminary and Procedural Matters

The Tenant provided the Parties' email addresses in the Application and they confirmed these addresses in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Early in the hearing, I asked the Agent for the Landlord's name in this matter, as the Landlord identified on the Application was different than that elsewhere in the evidence before me. The Agent advised me of the Landlord's numbered company, as well as the doing business as name of the Park. Accordingly, I amended the Respondent's name in the Application, pursuant to section 57 (3) (c) and Rule 4.2.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

### Issue(s) to be Decided

- Should the rent be reduced for repairs, services or facilities agreed upon, but not provided, and if so, by how much?
- Should the Landlord be ordered to make repairs, and if so, which ones?
- Is the Tenant entitled to recovery of her \$100.00 Application filing fee?

### Background and Evidence

The Parties agreed that the tenancy began on February 1, 2017, with a monthly rent of \$302.00, due on the first day of each month.

The Tenant explained her first claim, as follows:

The Tenant said:

I'm asking for compensation for the inability to enjoy my lot for fear of injury. I've

been tumbling around, weed whacking instead of using a lawn mower. I couldn't use a wheel barrow for transporting wood – it keeps getting stuck in sink holes. It's my inability to garden and establish a garden, because the whole site requires levelling.

I had a new deck installed, which had extra costs for supports for that. The deck went on a huge angle, because of a sink whole – it required extra cement, extra hours were Incurred. It took 15 wheels of gravel. The fence had to be taken down to allow entry to allow supplies to the deck.

That's my pad rent - a free month's rent for all my extra hours and inconvenience. I'm trying to be amicable.

The Agent responded, commenting on how she believes the Tenant is infringing on a lot next to hers with the Tenant's deck and/or fencing. However, I find that this is not relevant to the issues before me in this proceeding. When I asked the Agent about the Tenant's testimony about the sink holes on the property, the Agent said:

The land is settling but the mobile home park hasn't been responsible for trailer or lot levelling. And we have offered - due to a large infrastructure project - we have offered along with all tenants delivery of fill, which is taken from local area and roads. [The Tenant] did refuse loads of fill, until we reached arbitration.

I asked the Tenant why she refused delivery of fill to her site, and she said:

First, I am not encroaching on that lot without permission.... There are sink holes that need to be filled. All I need is some communication. That lot totally needs to be levelled.

Two, the lot on the other side of my trailer is still part of my lot, and it still has sink holes that need to be filled. This problem came up in April, and nothing was offered until August 27, and I didn't know if it would affect my [arbitration] hearing, so I declined gravel being dumped in my lot.

I cannot move gravel - I'm in my 60s - I don't even know if [the Agent] could shovel four loads of gravel. Nothing was done. No one came to look at my lot to see what the problem was.

I asked what precipitated the sink holes, and the Tenant said they were not all of a

sudden. She said it has been, "...gathering around the time I – I worked in [the City], and I didn't have time to deal with any of that stuff."

I asked if she is asking for the Landlord to deliver and spread the gravel, and she said:

They did deliver gravel in the past – 2007 to 2009 - at some point. Gravel was delivered. I struggled to move it around by shovel. My addition had fallen off,

because of a sink hole. The addition had pulled apart from the trailer. That had to be removed. I had to hire someone to bring in [an excavator] – I worked on it for two months by hand.

I asked the Tenant why the Landlord has the obligation to do more this time, and she said:

Gravel was supplied in the past, and was part of the mobile home rules. It's there where it says the Landlord is responsible for reasonable state of repair, lawful health, and safety standards, and they are responsible for maintaining park and site to a standard suitable for occupation.

The Agent responded:

The mobile home park has delivered fill to tenants, which is what we're currently going through, and it's solely for trailer leveling. The Park has never leveled the trailers, nor performed landscaping. We do not have the ability nor want the liability for leveling a tenant's trailer.

I asked how other tenants are handling these problems, and the Agent said:

Generally speaking, I'm going through the same process with my trailer - moving the fill yourself or hiring a contractor to level your trailer or your pad. Up until eight years ago, we provided gravel during large infrastructure projects. Eight years ago, access closed, and we had no fill for five years, so tenants had to take on other options. About five years ago, during a large infrastructure upgrade, we obtained a large amount of fill and stockpiled it around the mobile home park for use by the Park and tenants. Some hired contractors to take fill to them. Others take fill themselves.

The Tenant responded:

First, I'm not asking for my trailer to be levelled. I would never ask that. In the

past 15 years, I have always levelled my own trailer. I'm asking for the site maintenance to fill the sink holes in the land that goes around my trailer. The offer of the gravel being dropped off wasn't until August 27. There was no warning that we might be able.... There are items here that need to be out of the way, such as the wood pile. I don't have time to put the gravel around. It would render my whole area useless.

I want them to level it. I can't shovel gravel. I don't understand why I am paying for something that's in the rules of the mobile home Act as the Landlord's responsibility. Why am I financially responsible for that? I'm doing all the labour and paying the contractor. How is that fair? There are people who are handicapped. Are they doing it themselves?

When I suggested that they may be hiring someone to do it for them, the Tenant said: "I'm on a fixed income."

In terms of the remainder of the issues claimed by the Tenant, essentially, her requests involve the same thing – delivery and spreading of gravel on her property to fill sink holes, as well as one month free pad rent, as compensation for not being able to walk and work on the site, due to the sink holes.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Section 26 of the Act sets out the Parties' responsibilities for repair and maintenance of the park and sites.

### **Landlord and tenant obligations to repair and maintain**

#### **26 (1) A landlord must**

(a) provide and maintain the manufactured home park in a reasonable state of repair, and

(b) comply with housing, health and safety standards required by law.

(2) A tenant must maintain reasonable health, cleanliness, and sanitary standards throughout the manufactured home site and in

common areas.

(3) A tenant must repair damage to the manufactured home site or common areas that is caused by the actions or neglect of the tenant or a person permitted in the manufactured home park by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord is not required to maintain or repair improvements made to a manufactured home site by a tenant occupying the site, or the assignee of the tenant, unless the obligation to do so is a term of their tenancy agreement.

(6) A landlord's obligations under subsection (1) (b) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Neither Party submitted a copy of the Park Rules or a Mobile Home Park Guide to see the Parties' ground rules in starting this tenancy. As such, I have the legislation only to guide my analyses.

Based on section 26 of the Act, I find that both landlords and tenants have responsibilities to maintain the site. The Tenant acknowledges and prefers that it is her responsibility to level the trailer. The Landlord has taken it upon themselves to provide tenants with fill periodically – mainly when they have access to it from the municipality and/or a large infrastructure project. I find that the Landlord is aware of the problem with sink holes throughout the Park and that they have taken a role in assisting tenants in dealing with this problem by providing fill for the sites.

I find that tenants have a role, too, however, to use the fill provided by the Landlord in resolving the problem. Just as tenants are responsible for mowing their lawns, I find it reasonable that they would be responsible for spreading the fill around the site to fill in the holes. The Tenant may no longer be physically able to spread the fill, herself; however, as the trailer owner, I find she has a responsibility to have the work done however she can, such as by hiring someone to do the work for her, as other tenants have done in the Park.

The Tenant claimed compensation for repairs, services or facilities agreed upon, but not provided. However, the Tenant did not indicate in what way the Parties agreed that the Landlord would fill sink holes in the Tenant's site.

Section 1 of the Act defines “service or facility” as including:

**"service or facility"** includes any of the following that are provided or agreed to be provided by a landlord to the tenant of a manufactured home site:

- (a) water, sewerage, electricity, lighting, roadway, and other facilities;
- (b) utilities and related services;
- (c) garbage facilities and related services;
- (d) laundry facilities;
- (e) parking and storage areas;
- (f) recreation facilities;

I find that this does not include leveling park sites.

The Tenant did not direct me to any Park Rules or Park Guides saying that the Landlord is responsible for resolving this problem in the Park on their own. The Tenant spoke of the Landlord's obligation to comply with health, safety, and housing standards required by law; however, the Tenant did not direct me to any such standards under the law.

I find that both Parties have a responsibility here, pursuant to section 26 of the Act. I find that the Landlord has stepped up to provide the fill needed for this issue, without any cost to the tenants. I find it is the tenants' responsibility to have the fill spread on their sites. I find that the Tenant has not provided sufficient evidence to establish it is the Landlord's responsibility to supply *and* spread the fill, or that she should be compensated for not receiving these amenities.

I find that the Tenant's Application is unreasonable and I dismiss it wholly without leave to reapply, pursuant to section 55 of the Act.

### Conclusion

The Tenant is unsuccessful in her Application, as she failed to provide sufficient evidence to prove that the Landlord is responsible for providing *and* spreading the fill on the Tenant's site. The Landlord has taken responsibility to provide tenants with dirt and gravel to fill the sink holes. I find it is the tenants' responsibility to spread the fill on their respective sites, how ever they can arrange to have this done.

This Decision is final and binding on the Parties, unless otherwise provided under the

Act, and 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: September 09, 2022

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Residential Tenancy Branch