



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GIULIU INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP FFT

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Manufactured Home Park Tenancy Act* (Act). The tenant applied for an order directing the landlord to make repairs to the site or property and to recover the cost of the filing fee.

The tenant, an agent for the landlord, AV (agent) and the park manager for the landlord, DN (park manager) attended the teleconference hearing. The parties were affirmed and were provided the opportunity to present any documentary evidence that was the submitted in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules).

The agent and park manager confirmed that the landlord was served with the application and documentary evidence (Hearing Package) and had the opportunity to review both prior to the hearing. The agent and park manager confirmed that they did not serve any documentary evidence in response to the tenant's application.

Issues to be Decided

- Did the tenant provide sufficient evidence to support that the landlord should be ordered under the Act to make a repair to the unit, site or property?
- If yes, is the tenant also entitled to recover the cost of the filing fee under the Act?

Background and Evidence

The tenant submitted a copy of the tenancy agreement which indicates that a month-to-month tenancy began on May 1, 2013. Monthly rent of \$367 was the original monthly

rent and has always been due on the first day of each month. The parties agreed that current monthly site rent is now \$451 per month as of the date of this hearing.

The tenant is seeking the manufactured home park to repair the failing creosote-covered log retaining wall (Log Retaining Wall) and submitted several photos in support for the need for repairs. The tenant confirmed that the Log Retaining Wall is likely about 50 years old, and that in 2019 it began to fail so they reached out the park manager without any repairs to date.

There is no dispute that the Log Retaining Wall has failed and is spilling into the pad close to the manufactured home. The issue in dispute is who should repair the Log Retaining Wall. The tenant believes the park owner is responsible for the Log Retaining Wall as the tenant believes the original wall would have been built by the former owner of the park and is not the responsibility of the tenant. The agent and the park manager believe that the Log Retaining Wall is not the responsibility of the park.

During the hearing, the agent and park manager confirmed that the Log Retaining Wall does not include a lot behind it and instead has a water reservoir behind the Log Retaining Wall. The tenant stated that since they filed their application for repairs in July 2022, that as of the hearing on December 15, 2022, the Log Retaining Wall is in even worse condition due to the torrential rain season that is upon them and that "another foot has come down" according to the tenant.

The agent and park manager stated that the tenant should have addressed any Log Retaining Wall issues at the time the manufactured home was purchased by the tenant. The agent and park manager testified that another tenant has spent over \$100,000 on their walls. The agent and park managers stated that they don't know who built the Log Retaining Wall as they have owned the park for 15-20 years.

The tenant stated that they received a "loose quote" between the \$15,000 and \$20,000 to repair the Log Retaining Wall. The agent and park manager believe they could have the wall repaired for much less money using "their people."

The parties were unable to reach a settlement agreement during the hearing, and as a result, the details of those discussions are not mentioned in this decision as there was no agreement between the parties. The tenant stated that they are really disappointed that they have been required to apply for dispute resolution due to no action on the part of the park to repair the Log Retaining Wall. Emails submitted by the tenant to park

management were reviewed during the hearing. The agent and park manager indicated that Covid situation resulted in things not being attended to in the usual timelines.

Analysis

Based on the above, the testimony of the parties and the documentary evidence presented, and on a balance of probabilities, I find as follows.

I agree with the tenant that the Log Retaining Wall appears to be about 50 years old as creosote logs have not been used for retaining walls for a long period of time. In addition, I disagree with the agent and park manager that the park is not responsible for the Log Retaining Wall. I have carefully reviewed the photo evidence and taking into account the testimony of the agent and park manager who confirmed that the other side of the Log Retaining Wall is the water reservoir, I find that the Log Retaining Wall is on the property of the park and not the pad and is therefore the sole responsibility of the park owners to repair. Section 26 of the Act applies and states:

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.**

[emphasis added]

Given the above, I make the following orders pursuant to section 55(3) of the Act:

- 1. I ORDER** the landlord to repair the Log Retaining Wall within a reasonable timeframe and at the sole cost to the park owner.
- 2. I ORDER** the landlord to arrange for a geotechnical engineer at the sole cost to the park owner to attend the Log Retaining Wall for a recommendation on how best to repair the Log Retaining Wall within 30 days of the receipt of this decision via email.
- 3. I ORDER** that any recommended repairs as per 2 above, be completed no later than May 1, 2023, which provides sufficiently time to address weather related delays in completing the required repair.

Failing to comply with all 3 of my orders may result in the tenant applying for compensation under the Act. In addition, the tenant may contact the RTB Compliance

and Enforcement Unit (CEU) to request an investigation into the landlord's conduct, should the landlord fail to comply with any of my 3 orders listed above. The RTB CEU website is included below for ease of reference:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/compliance-and-enforcement>

Given the above, I find the tenant's application is fully successful. Therefore, I grant the tenant a one-time rent reduction of **\$100** from a future month of rent, in full satisfaction of the recovery of the cost of the filing fee.

Conclusion

The tenant's application is fully successful.

The landlord must repair at their own cost the Log Retaining Wall described above.

The tenant has been authorized to deduct \$100 from a future month of rent in full satisfaction of the filing fee.

This decision will be emailed to both parties.

If the landlord fails to comply with any of my 3 orders listed above, the tenant may apply for compensation under the Act and to the RTB CEU to request an investigation if the landlord fails to comply with any of my orders listed above.

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 *Manufactured Home Park Tenancy Act*.

Dated: December 20, 2022

Residential Tenancy Branch