



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WOODLAND MOBILE HOME
PARK and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant January 09, 2023 (the “Application”). The Tenant applied for an order that the Landlord make emergency repairs.

The Tenant appeared at the hearing. L.D. and S.A. appeared at the hearing for the Landlord. I explained the hearing process to the parties. I told the parties they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The parties provided affirmed testimony.

At the start of the hearing, the Tenant said they would call S.F., T.Z. and G.W. as witnesses. I told the Tenant the witnesses had to exit the room until required. The Tenant only ended up calling S.F. as a witness.

Both parties submitted evidence prior to the hearing. I confirmed service of the hearing package and evidence, and no issues arose.

The parties were given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered all evidence provided. I have only referred to the evidence I find relevant in this decision.

Issue to be Decided

1. Is the Tenant entitled to an order that the Landlord make emergency repairs?

Background and Evidence

There is no issue that there is a tenancy agreement between the parties.

The Tenant submits that the pipes in the park are contaminating their water. The Tenant seeks an order that the Landlord replace the pipes throughout the park or at least the pipes for the road to the Tenant's site.

The Tenant testified that the pipes are old and contaminating their water such that they are getting sick from using water in their home.

The agents for the Landlord testified that there is nothing wrong with the pipes in the park and nothing contaminating the Tenant's water such that the water is unsafe to use.

The issues before me are whether the Tenant's water is contaminated and, if so, whether it is the pipes in the park causing the contamination.

In relation to proving their water is contaminated, the Tenant provided a report from water testing they had done. The Tenant relied on issues with turbidity and aluminum in the water, stating the level of these are higher than what is permitted which is making the Tenant sick.

In relation to proving their water is contaminated due to the pipes in the park, the Tenant relied on information from the internet, their own testimony that the pipes in the park are constantly having to be repaired and their own testimony that the pipes are old. The Tenant testified that the pipes in the park are from the 1960s and are not made of PVC as claimed by the Landlord; however, the Tenant could not point to further evidence to support their testimony about this.

The agents for the Landlord disputed that the Tenant's water is contaminated and said the important number to look at on the Tenant's water testing report is the "MAC" not the "AO/OG". The agents submitted that the Tenant's water is under the maximum allowed for turbidity and aluminum. The agents testified that the pipes in the park are not from the 1960s and are PVC. The agents relied on a professional map in evidence showing the piping is PVC and a photo in evidence of the pipes. The agents testified that they had the water tested and it is within guidelines for safe use. The agents acknowledged the pipes in the park have needed repairs but said this is due to shifting and road work nearby.

In reply, the Tenant submitted that the professional map showing PVC piping relates to sewer lines or secondary water lines and not the main water lines.

The Tenant called S.F. as a witness. S.F. testified that they have also had issues with the quality of their water; however, S.F. had never complained about this to the Landlord.

I have reviewed the evidence submitted and find the evidence produced by independent third parties, rather than the Tenant or Landlord themselves, to be most compelling. The relevant independent evidence includes the following:

- A water test done at the Tenant's request in which the Tenant pointed to the turbidity and aluminum levels as higher than permitted for safe water
- Internet information about aluminum and turbidity in water
- Further information about turbidity in water
- A photo of PVC piping
- A professional map of PVC piping in the park

Analysis

Pursuant to rule 6.6 of the Rules, it is the Tenant as applicant who has the onus to prove they are entitled to the order sought. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts are as claimed.

The Landlord's obligations in relation to maintaining the park and site are set out in section 26 of the *Act* which states:

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.

The first issue is whether the Tenant's water is contaminated. The parties disagreed about this and therefore I have focused on the documentary evidence submitted to prove the Tenant's water is contaminated.

The Tenant takes issue with the turbidity and aluminum levels in their water. The evidence of the turbidity and aluminum levels in the Tenant's water is the report from the water test done at the Tenant's request. The Tenant took issue with the AO/OG levels of turbidity and aluminum. The report shows the AO/OG is the "Aesthetic Objective/Operational Guideline" and the MAC is the "Maximum Acceptable Concentrations". The report does not state anywhere that the water samples show the Tenant's water is unsafe to use. I agree with the agents for the Landlord that it is the MAC that is important. As the report shows, there is no MAC for turbidity and the MAC for aluminum is higher than the levels found in the Tenant's water.

I have read the internet information provided by the Tenant and none of it contradicts that the MAC is the important number to look at. Nor does it support that the turbidity and aluminum levels in the Tenant's water make it unsafe to use.

Given the above, I am not satisfied based on the evidence provided that the Tenant's water is unsafe to use.

In relation to the cause of the turbidity and aluminum levels in the Tenant's water, the Tenant has not submitted compelling evidence showing there is an issue with the piping in the park that is affecting the quality of their water. The Tenant has not submitted sufficient evidence that the pipes are old or past their useful life. The Tenant has not submitted sufficient evidence to support their position that the pipes are not PVC whereas the Landlord has submitted a photo and professional map to support their position that the pipes are PVC. In the circumstances, even if I accepted that the turbidity and aluminum levels in the Tenant's water are too high, there is insufficient evidence before me to prove the levels are caused by the pipes in the park.

I note that I place no weight on the testimony of S.F. because I find it unlikely that S.F. has experienced serious issues with their water yet has not made a complaint to the Landlord about this.

Given the above, I am not satisfied the Tenant has met their onus to prove their water is contaminated due to the pipes in the park and therefore I am not satisfied the Tenant is entitled to the order sought. The Application is dismissed without leave to re-apply.

Conclusion

The Application is dismissed without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 07, 2023

Residential Tenancy Branch