Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT, RR, RP, OLC, FFT

Introduction

This hearing dealt with the Tenant's application under the *Manufactured Home Park Tenancy Act* (the "Act") for:

- compensation of $6,979.41 for monetary loss or money owed by the Landlord pursuant to section 60;
- an order to reduce rent by $9,599.76 for repairs, services or facilities agreed upon but not provided, pursuant to section 58;
- an order for the Landlord to make repairs to the unit, site, property pursuant to section 26;
- an order that the Landlord comply with the Act, the regulations, or tenancy agreement pursuant to section 55; and
- authorization to recover the filing fee for this application from the Landlord pursuant to section 65.

The Landlord, the Landlord's agent NS, and the Tenant attended this hearing. They were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

All attendees were informed that the Residential Tenancy Branch Rules of Procedure prohibit unauthorized recordings of dispute resolution hearings.

The Landlord acknowledged receipt of the Tenant's notice of dispute resolution proceeding package and documentary evidence. The Landlord did not submit documentary evidence for this hearing.

Issues to be Decided

1. Is the Tenant entitled to compensation of $6,979.41 for monetary loss or money owed by the Landlord?
2. Is the Tenant entitled to an order to reduce rent by $9,599.76 for repairs, services or facilities agreed upon but not provided?
3. Is the Tenant entitled to an order for the Landlord to make repairs and for an order that the Landlord comply with the Act, the regulations, or tenancy agreement?
4. Is the Tenant entitled to reimbursement of the filing fee?

Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony presented, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of this application and my findings are set out below.

This tenancy commenced on September 29, 2020 and is month-to-month. Pad rent is currently $837.38 due on the first day of each month. A copy of the tenancy agreement is submitted into evidence.

The Tenant seeks compensation as follows:

Item	**Amount**
Rent Reduction (11 Months for Faulty Hydro)	$9,099.76
Electrical Service Call	$110.25
Damaged Motherboard	$459.16
Ignoring Requests re: Hydro	$2,000.00
Snow Removal	$200.00
Streetlight Repair	$200.00
Contaminated Soil Removal	$3,108.00
Asphalt Removal	$1,302.00
Shaw Cable	$100.00
Registered Mail	$14.90
Total	**$16,594.07**

The Tenant's evidence regarding faulty hydro is as follows. The Tenant submitted that he mentioned potential hydro issues in text messages with the Landlord early on in the

tenancy. On February 3, 2021, the Tenant texted the Landlord to advise that he has an EV with a charger that requires 100 amp service. On February 5, 2021, the Tenant texted the Landlord that the 60 amps used by the park is considered “high risk” by the Tenant’s home insurance company and that there would be an insurance surcharge. The Tenant submitted that he gave a verbal notice to the park manager about hydro problems in July 2021, which was ignored. The Tenant submitted a letter to the Landlord dated August 24, 2021, which contains a list of repairs to be made, including hydro issues causing flickering lights. The Tenant also submitted a letter to park management dated September 12, 2021, in which the Tenant described that since moving in, he has observed problems with power being off and on, lights dimming down and firing back up, and the power of appliances speeding up by itself.

The Tenant submitted an electrical company’s invoice dated October 27, 2021 for $110.25 (the “Electrical Invoice”), which describes the service provided as a “Service Call for power issues, the problem was with the parks power not anything that we installed”.

The Tenant submitted a $459.16 online order confirmation dated October 28, 2021 for purchasing computer parts, one of which is a motherboard for “cryptocurrency mining”. The Tenant indicated that his son’s motherboard was fried due to the hydro problems in their home.

The Tenant submitted that multiple park residents have experienced issues with fluctuating hydro power for at least two years. The Tenant submitted a signed statement from another park resident, JG, which indicates that JG experienced a 20-minute power outage from 8:40 pm to 9:00 pm on November 15, 2021, at the same time that the Tenant’s power was also “half out”. JG’s statement indicates that he experienced “multiple power failures, fluctuations, and outages overtime” while living at the park. There appears to be an error with the dates provided as JG’s statement is dated October 23, 2021.

In addition, the Tenant submitted two photos of the park hydro box, which show rust at the bottom of the interior of and underneath the hydro box. The Tenant included explanatory notes that on February 12, 2022, the power was cut in half resulting in a loss of heat and other systems. According to the Tenant, it was repaired on February 19, 2022, leaving the park residents without heat and other services in the meantime. The Tenant provided a close-up of a melted hydro switch in the box. The Tenant

submitted that BC Hydro had flagged this issue as resulting from a lack of maintenance and the cause of the residents' fluctuating power.

The Tenant submitted rent cheques paid from April 2021 to February 2022 representing the 11 months over which he seeks to have the rent refunded.

Regarding snow removal, the Tenant stated that his son was unable to get to work in the morning due to lack of snow removal and lost a day of work as a result. The Tenant argued that the timing for snow removal is important. The Tenant submitted a Yelp review of the park dated December 19, 2017, indicating poor snow removal at the park.

The Tenant stated that when he had agreed to rent the site, he assumed that it would be suitable for occupation. The Tenant stated that his contractor discovered the site was not up to code. In a letter to the Landlord dated July 19, 2021, the Tenant indicated that he had to clear contaminated soils and lay a proper foundation on the site before he could install his mobile home. The Tenant argued that it is the Landlord's responsibility to provide a site up to code. The Tenant seeks reimbursement of $3,108.00 for the cost of contaminated soil removal and $1,302.00 for asphalt removal. Copies of invoices for these expenditures dated May 29, 2021 and July 1, 2021 respectively are submitted into evidence. The Tenant explained that a section of asphalt/tarmac needed to be removed for the Tenant to install drainage for his home, which is not his responsibility as a tenant. The Tenant submitted a letter dated October 18, 2021 from FVH, the contractor that he hired (the "FVH Letter"). This letter states that upon site preparation, FVH's crew observed "sewage liquid and smell in the area, north eastern rear part of the above noted property. Upon examination they discovered a break in the 4 inch sewer line. They then proceeded to enlarge the excavation around the break and completed the repair. After completing the above they loaded the contaminated spoil (*sic*) and hauled it off site and completed the back fill". The Tenant submitted evidence of "sewer history" at the park, including statements and a dispute resolution application by neighbour residents from 2010. The Tenant also submitted photos before, during, and after site preparation, as well as correspondence with the Landlord's counsel regarding compensation.

In addition to compensation, the Tenant seeks repairs to the park and an order that the Landlord comply with the Act and the tenancy agreement by maintaining the park in a reasonable state of repair.

The Tenant submits that the Landlord has not complied with an order to repair a streetlight as per the arbitrator's decision in a previous dispute resolution proceeding (the "Previous Decision") (see file number referenced on the cover page of this decision).

A copy of the Previous Decision is submitted into evidence. The Previous Decision is a settlement decision which includes a term, at paragraph 1(b), for the Landlord to replace a burned out streetlight located on the park property directly across from the tenant's home and site by April 15, 2022.

The Tenant submits that the Landlord has not taken care of:

- Dilapidated signage, peeling lamp post paint, and exposed weed barrier
- Old and rusty electric breakers to individual homes
- Upgrading the park to 100 AMP as merited by installation of new homes

The Tenant acknowledged that some repairs are underway, but mostly on the east side of the park and primarily in landscaping. The Tenant submits that the more visible areas of disrepair, such as paint, lights, and ground cover, are untouched. The Tenant submits that the east side of the park appears very neglected and dilapidated with unskirted trailers, unlicensed vehicles, and homes in disrepair. The Tenant indicated that he did not submit any photos of other residents' mobile homes for privacy reasons. The Tenant argued that these problems are against the parties' tenancy agreement. The Tenant submitted an evaluation from a real estate agent expressing the opinion that the market value of the Tenant's home would not be as high as it could be due to the general dilapidated appearance of the park itself.

In response, the Landlord testified that each site is serviced with 60 amps service. The Landlord stated that the Tenant requested a 100 amp service which cannot be handled by the park's existing infrastructure. The Landlord stated that the Tenant pays for hydro to BC Hydro which is not something provided by the park. The Landlord stated that the park only rents the pad and provides water and sewer. The Landlord argued that if there were hydro issues, the Tenant did the right thing by reaching out to an electrician, but it would not be the park's responsibility. The Landlord argues that the park's responsibility is to ensure compliance with Technical Safety BC, which is done.

Regarding the melted hydro switch, the Landlord stated that a replacement part was ordered and the repairs were completed. The Landlord stated that the Tenant was not without power, but maybe did not have reliable service for a few days.

Regarding snow removal, the Landlord indicated that the Tenant had sent pictures which show that the snow hadn't been cleaned at 8:30 am but was cleaned by 1:30 pm. The Landlord stated that he didn't understand the complaint as snow removals were conducted after snowfalls. The Landlord indicated the park cannot guarantee that snow removal happens at a certain time of the day, but it gets done.

The Landlord stated that he has not seen any documentation or environmental report about soil contamination. The Landlord questioned where the Tenant's contractor disposed of the allegedly contaminated soil. The Landlord questioned whether the Tenant was taken advantage of by his contractor. The Landlord argued that the park should have been notified and given an opportunity to remediate if contaminated soil had been discovered. The Landlord argued it was not fair for the Tenant to have his contractor do the work, then tell the Landlord after the fact what happened. The Landlord stated that if there was contaminated soil, it would need to go to a special landfill and there would have been an environmental report. The Landlord argued that removing asphalt and topsoil falls into the category of the Tenant's responsibility to prepare the pad. The Landlord confirmed that they had signed the letter of authorization for the Tenant's contractor to pull the necessary permits for this work.

The Landlord stated that the streetlights in the park are owned by BC Hydro as well, and they had canceled a legacy program for the lights, which were powered by an unmetered service. The Landlord indicated that they are in the process of figuring out a way to get power to the streetlight mentioned by Tenant. The Landlord acknowledged that they had been unable to do so as agreed upon in the Previous Decision. The Landlord agreed to compensate the Tenant $200.00 as requested for this streetlight.

The Landlord explained that they took ownership of the park in 2020, and are still in the process of working on various things, which takes time. The Landlord stated that they have been working on landscaping and cleaning up since taking ownership. The Landlord stated that they perform annual maintenance items.

The Landlord stated that regarding the other residents and the states of their homes, if something is unsightly, the Landlord will start a conversation with the resident or reach out to the Residential Tenancy Branch for a hearing. The Landlord noted that the Tenant is talking about his home being devalued. The Landlord stated that the park cannot force the other residents to spend the same amount of money to make their

homes the same standard as the Tenant's home. The Landlord stated that some of the park residents are low income.

Analysis

1. *Is the Tenant entitled to compensation of $6,979.41 for monetary loss or money owed by the Landlord?*

Section 60 of the Act states that if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

According to Residential Tenancy Branch Policy Guideline 16. Compensation for Damage or Loss, the purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

I will address each of the items for compensation claimed by the Tenant in the following order: (a) electrical service call and motherboard, (b) requests for hydro, (c) snow removal, (d) streetlight repair, (e) contaminated soil removal and asphalt removal, (f) Shaw cable, and (g) registered mail.

a. Electrical Service Call and Motherboard

I find the Electrical Invoice does not provide details to explain the issue which prompted the service call or what repairs were performed, only to say that it was the park's power and not anything that the electrical company had installed. I find this description to be vague and somewhat self-serving.

I find the Tenant seeks for the park to provide support for 100 amps while the current infrastructure only supports 60 amps. I find the Tenant has a charger which uses 100 amps. I find it is unclear whether the electrical issue prompting the service call was caused by the Tenant attempting to use more amperage than that which is supported by the park infrastructure, or was necessitated by the Landlord's inadequate or improper maintenance of the park's hydro infrastructure. Based on the evidence presented, I am unable to conclude that the Landlord should be liable for this expense under section 60 of the Act. The Tenant's claim for reimbursement of the Electrical Invoice is therefore dismissed without leave to re-apply.

In addition, I find there is insufficient evidence to prove that the Tenant's son's motherboard was damaged by faulty hydro relating to the Landlord's obligation to maintain the park's infrastructure. I find the Tenant did not submit evidence regarding any damaged parts or explain when and how damage is alleged to have occurred. I find the evidence submitted by the Tenant is only in relation to brand new parts that were purchased. Therefore, I am not satisfied on a balance of probabilities that a loss was suffered for the reason claimed. I dismiss the Tenant's claim under this part without leave to re-apply.

b. Requests for Hydro

The Tenant claims $2,000.00 due to being ignored by the Landlord for hydro requests. I am not satisfied that the Tenant has demonstrated that the Landlord is in breach of the Act, the regulations, or tenancy agreement in respect of this claim. I am also not satisfied the Tenant has proven that he suffered loss in the amount of $2,000.00. The Tenant's claim under this part is dismissed without leave to re-apply.

c. Snow Removal

I find the Tenant has provided little evidence to explain why he considers snow removal at the park to be inadequate, other than to say that snow was not removed one morning when his son was trying to go to work. I give no weight to the 2017 Yelp review submitted by the Tenant. I find this evidence is outdated and I do not find it to be a credible or reliable source of information.

The Landlord's evidence is that snow removals are performed after each snowfall, although the timing in the day is not guaranteed. I find there is insufficient evidence to show that the snow removals were not done within a reasonable time after each

snowfall. I find the Tenant has not demonstrated that the Landlord has breached the Act, the regulations, or the tenancy agreement with respect to snow removal from the park. The Tenant's claim for compensation due to snow removal is dismissed without leave to re-apply.

d. Streetlight Repair

I find the parties had agreed in the Previous Decision for the Landlord to replace the burned out streetlight on the park property directly across from the Tenant's home and site by April 15, 2022. I find the Landlord has not been able to do so due to being unable to find a way to power this streetlight. I find the Landlord agrees to compensate the Tenant by $200.00 as sought for the lack of a streetlight. Therefore, by consent of the parties, I order the Landlord to pay the Tenant $200.00 for the streetlight.

e. Contaminated Soil Removal and Asphalt Removal

I find it is not discernable from the photos submitted by the Tenant that the site was not "up to code" and was contaminated. I find the photos simply show the site empty and bare, with patches of dirt. I find there are no photos of a break in the sewer line as suggested in FVH's Letter. I find that aside from FVH's Letter and invoice, there is no contemporaneous evidence to corroborate the allegation of soil contamination at the site, such as an environmental report, test result, correspondence with the relevant authorities, or disposal documentation. I find there is insufficient evidence to indicate that the site was not "up to code", or that the Landlord had been provided an opportunity to test or remediate at the time of preparing the site. I find the evidence regarding "sewer history" submitted by the Tenant from 2010 to be too outdated and remote to be reliable or helpful to support the Tenant's claim in this regard.

Regarding the asphalt/tarmac removal, I accept that this was done to make the site suitable for allowing drainage for the Tenant's home. However, I find it is not clear that this section of asphalt had made the site unsuitable for occupation generally, or whether it was only unsuitable for the Tenant's purposes. I find there is insufficient evidence to show whether the parties had an agreement as who should have been responsible to bear this cost.

Based on the evidence presented, I am not satisfied on a balance of probabilities that the Landlord had provided the Tenant with a site that was not suitable for occupation. I find the Landlord had not otherwise agreed to pay for the expenses claimed by the

Tenant. Accordingly, I dismiss the Tenant's claims for compensation for contaminated soil and asphalt removal without leave to re-apply.

f. Shaw Cable

In a letter to the Landlord dated July 19, 2021, the Tenant requested reimbursement for four months of inaccessible Shaw service at $25.00 per month for a total of $100.00. The Landlord agreed to compensate the Tenant for this item in a letter to the Tenant attached to an email dated September 6, 2021. Based on the foregoing, I find there was an agreement for the Landlord to reimburse the Tenant $100.00 for Shaw cable, and I award this item to the Tenant pursuant to section 60 of the Act.

g. Registered Mail

Section 65 of the Act addresses the director's orders regarding fees and monetary orders. Except for the filing fee to make an application for dispute resolution or for review of a decision, the Act does not provide for the award of costs associated with litigation to either party. Accordingly, and as explained to the parties during the hearing, the Tenant's claim for the recovery of the registered mail fee is dismissed without leave to re-apply.

2. *Is the Tenant entitled to an order to reduce rent by $9,599.76 for repairs, services or facilities agreed upon but not provided?*

Under section 58(1)(f) of the Act, if the director finds that a landlord or tenant has not complied with the Act, the regulations or the tenancy agreement, the director may order that past or future rent must be deducted by an amount that is equivalent to a reduction in the value of a tenancy agreement.

Residential Tenancy Policy Guideline 22. Termination or Restriction of a Service or Facility ("Policy Guideline 22") states that where it is found there has been a substantial reduction of a service or facility, without an equivalent reduction in rent, an arbitrator may make an order that past or future rent be reduced to compensate the tenant.

Policy Guideline 22 further states where there is a termination or restriction of a service or facility for quite some time, through no fault of the landlord or tenant, an arbitrator may find there has been a breach of contract and award a reduction in rent. On the other hand, where there is a termination or restriction of a service or facility due to the

negligence of the landlord, and the tenant suffers damage or loss as a result of the negligence, an arbitrator may also find that the tenant is eligible for compensation for the damage or loss.

The burden of proof is on the tenant to show that a service or facility was terminated or restricted and that the landlord has not reduced rent by an appropriate amount.

In this case, I find hydro or electricity is a “service or facility” as defined in paragraph (a) of the definition in section 1 of the Act. I find electricity is essential to the use of the manufactured home site as a site for a manufactured home, which a landlord must provide, even though a tenancy agreement may stipulate that the tenant pays for such service.

I find the Landlord acknowledged that there were partial disruptions due to the melted hydro switch in February 2022. I find the Tenant’s evidence is that the power was cut in half from February 12, 2022 to February 19, 2022. Based on this evidence, I estimate a reduction in value of the tenancy at 50% per day over eight days from February 12 to 19, 2022. Pursuant to section 58(1)(f) of the Act, I order a rent reduction of $837.38 × 8/28 days × 50% = $119.63 for partial hydro disruption in February 2022.

I find the Tenant has not otherwise provided sufficient evidence to demonstrate that there had been substantive restrictions or interference with the use of electricity between April 2021 and January 2022. I find the Tenant has not provided any dates to show that he was without electricity for any period during this time. I find the Tenant described experiencing issues such as lights flickering and a couple of incidents where appliances were speeding up. However, I find the Tenant has not provided any dates or times show how frequently these types of issues were experienced or how long they persisted on each occasion. I find that aside from a witness statement describing a one-time loss of power for 20 minutes, there is little evidence to corroborate the Tenant’s assertion that many other park residents have also experienced hydro fluctuations for two years. Furthermore, I find there is insufficient evidence to support the statements attributed by the Tenant to BC Hydro about the cause of fluctuations and inadequate maintenance. Overall, I find there is insufficient evidence to demonstrate that any issues experienced by the Tenant were more than temporary discomfort or inconvenience, and were sufficiently serious and frequent to warrant compensation in the form of a rent reduction.

Based on the foregoing, I grant the Tenant a rent reduction $119.63 for partial hydro disruption in February 2022 only. The remainder of the rent reduction sought by the Tenant is dismissed without leave to re-apply.

3. *Is the Tenant entitled to an order for the Landlord to make repairs and for an order that the Landlord comply with the Act, the regulations, or tenancy agreement?*

Section 26(1) of the Act states that a landlord must provide and maintain the manufactured home park in a reasonable state of repair, and comply with housing, health and safety standards required by law.

Section 2 under “Park Services” on page 3 of the tenancy agreement states that the park will maintain non-leased and common areas of the park not in use. Sections 1 to 3 under “Maintenance” on page 4 of the tenancy agreement describes maintenance and landscaping, such as skirting the home and weeding around the home, to be the responsibility of the tenant.

I have reviewed the photos submitted by the Tenant showing the “dilapidated” signage, peeling lamp post paint, exposed weed barrier, as well as old and rusty breakers or meters. I find the Tenant’s complaints regarding these items to be largely cosmetic in nature. I find two of the three signage pictured to be somewhat dirty and faded, but still legible. The third and least legible sign appears to be a sign for a site number, and the functional importance of this sign is unclear. I find the photos appear to include the inside of the breaker box which would not be visible when closed. Based on the photos submitted, I do not find the park to have an overall “dilapidated” appearance, though I find it has elements which show its age. I do not find the photos to demonstrate that the Landlord has failed to provide and maintain the park in a reasonable state of repair. I find the parties’ evidence to be that the Landlord has and is continuing to work on areas within the park.

I note the Landlord’s obligation to repair and maintain the park under the Act and the tenancy agreement does not necessary require the Landlord to improve the appearance of the park so that the Tenant may obtain a higher market value for his home.

I find the maintenance of individual sites is the responsibility of park residents under section 26(2) of the Act, and not of the Landlord.

In addition, I accept that having to use 60-amp service has led to a surcharge for the Tenant's home insurance. However, I am unable to conclude that this level of amperage does not comply with housing, health and safety standards required by law. I find that it is simply a feature of older infrastructure. I am unable to conclude the Act, regulations, or tenancy agreement require the Landlord upgrade the park to 100 amps at this time in order to comply with housing, health and safety standards required by law.

Based on the foregoing, I decline to issue any orders for repairs or an order that the Landlord comply with the Act, the regulations, or tenancy agreement at this time. The Tenant's claims under this part are dismissed without leave to re-apply.

4. Is the Tenant entitled to reimbursement of the filing fee?

The Tenant has been partially successful in this application. I award the Tenant reimbursement of his filing fee under section 65(1) of the Act.

The total amount awarded to the Tenant in this decision is calculated as follows:

Item	**Amount**
Rent Reduction for Partial Hydro Disruption from February 12 to 19, 2022 inclusive ($837.38 × 8/28 days × 50%)	$119.63
Compensation for Lack of Streetlight	$200.00
Shaw Cable	$100.00
Filing Fee	$100.00
Total	**$519.63**

Conclusion

The Tenant's claims for a rent reduction and monetary compensation are partially successful. The Tenant's claim for reimbursement of the filing fee is granted. The remaining claims sought by the Tenant in this application are dismissed without leave to re-apply.

Pursuant to section 65(2) of the Act, I authorize the Tenant to withhold a one-time amount of **$519.63** from rent payable to the Landlord for the month of June 2023 in full satisfaction of the amount awarded in this decision.

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: May 20, 2023

Residential Tenancy Branch