

## **DECISION**

### **Dispute Codes:**

MNDC, OLC, and FF

### **Introduction**

This hearing was scheduled to address the Tenant's application for a monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (Act), regulation or tenancy agreement; for an Order requiring the Landlord to comply with the Manufactured Home Park Tenancy Act (Act); and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing, although the Tenant attended the hearing by teleconference. No conversation that was germane to this hearing was discussed in the absence of the Tenant. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

### **Issue(s) to be Decided**

The issues to be decided are whether the Tenant is entitled to compensation pursuant to section 44(2) of the *Act* because steps were not taken to accomplish the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice.

### **Background and Evidence**

The Landlord and the Tenant agree that this tenancy began on May 07, 2002 when the Tenant was permitted to move a manufactured home onto a three acre parcel of property belonging to the Landlord. The parties agreed that the Tenant was paying monthly rent of \$300.00 during the latter portion of this tenancy and that there were no other residences on the property during this tenancy.

The Landlord and the Tenant agree that the Tenant was served with a Twelve Month Notice to End Tenancy for Conversion of Manufactured Home Park, pursuant to section 42 of the *Act*, on October 16, 2007. The Notice to End Tenancy declared that the Tenants must vacate the rental unit by November 30, 2008. The Notice indicated that the land has all necessary permits and approvals required by law and intends, in good faith, to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park. A copy of the Notice to End Tenancy was submitted in evidence.

The Landlord stated that sometime in August of 2007 he told the Tenant he was interested in selling the property. The Landlord stated that prior to serving this Notice to

End Tenancy he had a verbal agreement to sell the property and that the agreement fell through because the prospective buyer did not wish to purchase a property with a tenant on it.

The Landlord stated that after this verbal agreement fell through he decided to convert the property which is the subject of this dispute to his own use. He stated that he had no concrete plans to sell the property when he served the Notice to End Tenancy on October 16, 2007 and that he has not attempted to sell the property since that date.

The Landlord and the Tenant agree that this tenancy ended on November 28, 2008.

The Landlord and the Tenant agree that the Landlord moved a fifth wheel onto the property in June of 2009. The Landlord stated that he and members of his family periodically use the fifth wheel and the property for recreational use. He stated that there was a delay in moving the fifth wheel onto the property for a variety of reasons related to taking possession of the fifth wheel that had recently been purchased and transporting it to the property. The Tenant did not refute that the property is being used for recreational purposes by the Landlord and his family.

The Tenant stated that she believed that the Landlord intended to do more with his property than to retain it for his own personal use, although she acknowledged that the Landlord did not tell her what his intentions were when he served her with the Notice to End Tenancy. She stated the only thing she was ever told was that the property was going to be sold. She stated that the property has not been developed nor have they applied for development permits.

### Analysis

Section 42 of the *Act* authorizes a landlord to end a tenancy if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park.

In the absence of evidence to the contrary, I accept the Landlord's evidence that when he served the Notice to End Tenancy on October 16, 2007 he did not have plans to sell the property and he simply wanted to take vacant possession of his property and to use it for his own recreational purposes. I find these reasons to be compliant with section 42 of the *Act*, as wanting vacant possession of your own property and using it for personal recreation purposes both constitute a non-residential use.

Section 44(2) of the *Act* stipulates that if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of six month's rent. In the absence of evidence to the contrary, I find that that Landlord retained vacant possession of the property since this tenancy ended and that he eventually moved a fifth wheel onto the property which he, and members of his family, are using for recreational purposes. I find that he has used the property for

the purposes he converted the manufactured home park since he ended the tenancy and that he continues to use the property for that purpose.

In reaching this conclusion I specifically note that section 42 does not require a landlord to develop property when he ends a tenancy in a manufactured home park. I further note that no permits or approvals are required when a landlord simply wishes to convert a property for his own personal use.

### Conclusion

As the Tenant has failed to establish that the Landlord did not comply with section 42 of the *Act*, I hereby dismiss the Tenant's application for compensation pursuant to section 44(2) of the *Act*.

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: July 28, 2010.

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Dispute Resolution Officer