



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** MNDC; OLC; AS, FF, O

### **Introduction**

This is the Tenant's application for a Monetary Order for compensation for damage or loss; an Order that the Landlords comply with the Act, regulation or tenancy agreement; an Order allowing the Tenant to sublet the rental site, because the Landlords' permission has been unreasonably withheld; and to recover the cost of the filing fee from the Landlords.

The parties gave affirmed evidence at the Hearing.

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

- (1) Is the Tenant entitled to an Order allowing her to sublet the rental site?
- (2) Is the Tenant entitled to a monetary award in compensation for damage or loss?

### **Background and Evidence**

The Tenant seeks a monetary award in the amount of \$1,121.32 for the loss of one month's rent; the increased insurance paid; and the cost of advertising for a new tenant.

The Tenant testified that the Landlord will not allow her to rent out her manufactured home, and that he has unreasonably withheld his permission to do so.

The Tenant has not provided the Landlord with a written request that she be allowed to sublet the rental site.

## **Analysis**

Section 28 of the Act states:

### **Assignment and subletting**

- 28** (1) A tenant may assign a tenancy agreement or sublet a manufactured home site only if one of the following applies:
- (a) the tenant has obtained the prior written consent of the landlord to the assignment or sublease, or is deemed to have obtained that consent, in accordance with the regulations;
  - (b) the tenant has obtained an order of the director authorizing the assignment or sublease;
  - (c) the tenancy agreement authorizes the assignment or sublease.
- (2) A landlord may withhold consent to assign a tenancy agreement or sublet a tenant's interest in a manufactured home site only in the circumstances prescribed in the regulations.
- (3) A landlord must not charge a tenant anything for considering, investigating or consenting to an assignment or sublease under this section.

Section 44 of the regulation states:

### **Written request for consent to assign or sublet**

- 44** (1) Sections 45 *[response within 10 days]* and 46 *[deemed consent]* apply to a home owner's request for consent to assign or sublet only if the home owner requests the consent of the landlord of the park to assign or sublet in writing in the form approved by the director.
- (2) The home owner must serve the request on the landlord
- (a) in accordance with section 81 of the Act *[service of documents]*, and
  - (b) within sufficient time prior to the effective date of the proposed assignment or sublease to allow the landlord to respond under section 45 (1) (c) *[response within 10 days]*.

(3) The written request under subsection (1) must be signed by the home owner and must provide all of the following information:

- (a) the name and address of the home owner making the request;
- (b) the name and address of the landlord or landlord's agent;
- (c) the proposed effective date for the assignment or sublease;
- (d) the name of the proposed purchaser or subtenant;
- (e) the current address of the proposed purchaser or subtenant, the length of time the proposed purchaser or subtenant has lived at that address and the name and telephone number of the landlord, if any, for that address;
- (f) if the length of time at the address provided under paragraph (e) is less than 2 years, the previous address of the proposed purchaser or subtenant, the length of time the proposed purchaser or subtenant has lived at that address and the name and telephone number of the landlord, if any, for that address;
- (g) the names and telephone numbers of two personal references for the proposed purchaser or subtenant;
- (h) the signed consent of the proposed purchaser or subtenant authorizing the landlord to contact the other landlords whose names are provided under paragraphs (e) and (f) and the personal references provided under paragraph (g) for the purpose of verifying or obtaining information relevant to the request to assign or sublet;
- (i) if the manufactured home site is in a park in which every manufactured home site is reserved for rental to a tenant who has reached 55 years of age or to 2 or more tenants, at least one of whom has reached 55 years of age, as set out in section 10 (2) (b) (i) of the *Human Rights Code* [permitted age requirements], the date of birth of the proposed purchaser or subtenant who meets the age requirement and proof of that person's age;
- (j) if the request is for consent to sublet, a statement that the home owner has complied with section 50 (2) [effect of sublease];
- (k) if the request is for consent to assign,
  - (i) the current monthly rent for the manufactured home site,

- (ii) the effective date of the most recent legal rent increase,
  - (iii) the proposed purchaser's signed consent authorizing the landlord to obtain a credit report on the proposed purchaser,
  - (iv) the proposed purchaser's signed statement that he or she has been informed of and agrees to comply with
    - (A) the tenancy agreement, and
    - (B) the applicable rules,
  - (v) a copy of
    - (A) any part of the tenancy agreement that is in writing, and
    - (B) any of the rules that are in written form and that apply to the tenancy of the home owner, and
  - (vi) a copy of any outstanding orders or notices given under the Act respecting the manufactured home park site;
- (l) any additional information required by the form approved by the director referred to in subsection (1).

The Tenant has not provided the Landlord with her written request in accordance with the provisions of Sections 44(1) and (2) of the regulation, and therefore her application for an Order allowing her to sublet the rental site is premature.

The balance of the Tenant's application is based on the Landlord's withholding his permission. The Landlord has not been served with a written request, and therefore has not denied the Tenant his approval to sublet the rental site in accordance with the provisions of Section 45 of the regulation. The Tenant's application is therefore dismissed.

### **Conclusion**

The Tenant's application is dismissed.

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: November 29, 2010.

---