



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OLC, PSF, RPP, O

Introduction

This hearing was convened by way of conference call to deal with the tenant's application for an order that the landlord comply with the *Act*, regulation or tenancy agreement; for an order that the landlord provide services or facilities required by law; and for an order that the landlord return the tenant's personal property.

The tenant attended the conference call hearing, and the landlord company was represented by an agent and the manufactured home park owner. The parties provided affirmed testimony and were given the opportunity to cross examine each other on their evidence. The parties also provided written evidence in advance of the hearing, however an evidence package provided by the tenant was not provided to the Residential Tenancy Branch or to the landlord within the time set out in the *Residential Tenancy Act* or the Rules of Procedure. The landlord opposed the inclusion of that evidence, and therefore, that evidence is not considered in this Decision. All other evidence and testimony provided has been reviewed and is considered in this Decision.

During the course of the hearing, the tenant indicated that the applications for an order that the landlord provide services or facilities required by law, and the application for an order that the landlord return the tenant's personal property are both withdrawn. Those portions of the tenant's application are therefore dismissed.

Issue(s) to be Decided

Is the tenant entitled to an order that the landlord comply with the *Act*, regulation or tenancy agreement?

Background and Evidence

This month-to-month tenancy began on August 4, 2006 in a manufactured home park.

The tenant testified that the landlord had given verbal consent to the manufactured home pad being reassigned or subleased to her by her son. The tenant asks for an order that she be considered a tenant.

The landlord provided a document dated August 1, 2006 signed by the owner of the manufactured home, who is the son of the applicant herein. The document requests consent of the landlord to sublet the pad tenancy agreement in order to rent out the home. The copy is difficult to read, but clearly has no signature of the landlord. The landlord also provided a copy of a tenant ledger for this particular unit showing that the rent had been paid by the owner in August, September, October, November and December, 2010 as well as January, 2011, not by the tenant before me.

The landlord also provided a copy of a notice issued to the tenant owner from the landlord stating that his tenant has caused undue stress to the management team at the mobile home park, that police had been called, and the behaviours must stop immediately or the unit would be evicted.

The landlord also provided a copy of a tenancy agreement between the landlord and the tenant's son, but not between the landlord and this tenant. The landlord also provided a print-out from the Manufactured Homes Registry dated April 6, 2010 showing that the home is registered to the tenant's son.

Analysis

I have reviewed the tenancy agreement provided by the landlord and signed by the owner of the manufactured home. At Section 5 of that agreement, it clearly states that:

“Occupants: A person not listed in this Section who resides on the site for more than four weeks in any calendar year without prior written consent of the Landlord shall be considered to be occupying the site contrary to this Agreement and considered a trespasser in the Park. The Tenant shall promptly apply in writing for permission from the Landlord for such person to become a permanent occupant. Failure to apply and obtain the necessary approval of the Landlord in writing is a breach of a material term of this Agreement. The landlord may give notice to the tenant to immediately correct the breach. The landlord has the right to end the tenancy if the tenant fails to correct the breach within a reasonable time after having been given written notice by the Landlord.”

No names appear in that section of the document. Further, the tenancy agreement, at paragraph 13 states as follows:

“The tenant understands and agrees that no subletting of the manufactured home will be permitted at any time during this tenancy or on this site.”

I must therefore find, in the absence of evidence to the contrary that the landlord did not consent in writing to subletting the manufactured home. The only evidence before me is that of the tenant who testified that the landlord verbally consented.

However, I have also reviewed the notice provided by the landlord prior to the commencement of this hearing, which states to the tenant who is named in the tenancy agreement:

“This is to notify you that your tenant has caused undue stress to the management team... All of these behaviours must stop immediately or we will be forced to evict your unit... If I do not hear from you about these issues by Monday September 20th, 2010 I will have no choice but to take these matters to arbitration.”

As a result of that notice, I find that the landlord has consented to this tenant residing in the manufactured home park so long as the tenant abides by the rules.

I further find that the owner of the manufactured home has paid the rent, not the tenant before me. I have no evidence before me to prove whether or not the tenant ever purchased the manufactured home from her son and the notice from the landlord was issued to her son, not to the tenant before me. In the circumstances, by the paperwork filed and presented, I find that the tenant is a tenant of the manufactured home, not of the manufactured home park.

Conclusion

For the reasons set out above, the tenant’s application is hereby 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 *Residential Tenancy Act*.

Dated: February 14, 2011.

Residential Tenancy Branch