



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC AS O FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement, to allow a tenant to assign or sublet because the landlord's permission has been unreasonable withheld, for other reasons, and to recover the cost of the filing fee from the Landlord for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

### Issue(s) to be Decided

1. Are the Applicant Tenants a party to the tenancy agreement that they are seeking assignment for?

### Preliminary Issues

Counsel submitted that the applicants to this dispute do not have rights to bring this action forward as they are seeking to be assigned a lease from the previous tenant, the seller of the manufactured home they purchased in 2007, and are not seeking to assign the tenancy agreement which they are named parties too. He further submitted the applicants are seeking monetary compensation in a claim for breach of a statutory duty under the *Manufactured Home Park Tenancy Act*, which pertains to the seller's tenancy agreement and not the applicants' tenancy agreement.

The Tenants confirmed they are seeking to be assigned the seller's tenancy agreement and argue that the Landlord unreasonable withheld permission for assignment and coerced them into signing a new tenancy agreement on January 18, 2007 which began on February 9, 2007.

Counsel advised that the seller signed an agreement to end her tenancy with the Landlord and at no time did the seller request an assignment from the Landlord, verbally or written. He argued that this matter must fail as this would have had to have been brought forth by the seller, not these applicants, within the two year limitation period as provided for under the *Limitation Act*.

The applicants wished to have the limitation period extended under section 59 of the *Manufactured Home Park Tenancy Act*, as they did not wilfully delay in making their application, made the application as soon as was reasonable as prior to this time they felt intimidated by the previous park management, they had applied back in 2007 and withdrew that application without prejudice, and had even attempted to sell their home but were unable to due to the high pad rental. They advised the monetary amount they are seeking is to recover costs for the difference in pad rent from the seller's rent and their rent plus recovery of costs for work that had to be performed to the manufactured home site in accordance with their tenancy agreement that would not have been applicable had they been assigned the seller's lease.

### Analysis

Section 28(1) of the *Manufactured Home Park Tenancy Act*, provides that a tenant may assign a tenancy agreement or sublet a manufactured home site if (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.

The *Residential Tenancy Policy Guideline # 19* provides statutory provisions as follows:

- It is up to the original tenant to seek the landlord's consent.
- The proposed new tenant is not a party to the tenancy agreement until such time as the landlord has agreed to assignment and the formal transfer is made.
- A landlord is not required to give consent if not asked to do so.
- If a landlord arbitrarily or unreasonably withholds consent to assign the tenant's interest in a tenancy agreement, the original tenant may apply for dispute resolution.

The evidence supports that the applicants to this dispute are not the original tenant and are not parties to the tenancy agreement which they are seeking to have assigned. Accordingly I find the applicants have no standing in this matter and this application is hereby dismissed.

Conclusion

I HEREBY DISMISS this application.

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: December 22, 2011.

---

Residential Tenancy Branch