



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, LRE, AS, FF

Introduction

This is an application filed by the Tenant for an order to comply with the Act, to control the Landlord's right to enter, allow a Tenant to assign/sublet because the Landlord's permission has been unreasonably withheld and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the submitted evidence by Canada Post Registered Mail, I am satisfied that both parties have been properly served.

During the hearing it was clarified that the Tenant's application is to seek an order to allow the Tenant to sublet because the Landlord's permission has been unreasonably withheld and recovery of the filing fee. The remaining portions of the Landlord's application have been withdrawn.

It was also clarified with both parties that as the Landlord has failed to make an application for dispute resolution to get an order of possession that it cannot be combined with this application filed by the Tenant.

Issue(s) to be Decided

Is the Tenant entitled to an order allowing the Tenant to sublet the rental unit because the Landlord's permission has been unreasonably withheld?

Background, Evidence and Analysis

Both parties have confirmed that the Tenant made a written request to be allowed to sublet the manufactured home on November 21, 2012 which was received on November 23, 2012 by Canada Post Registered Mail. The Landlord responded to the written request in writing by Canada Post Registered Mail on November 30, 2012.

I find that both parties have satisfied the requirements for serving a written request and responding to the written request pursuant to the Act.

The Landlord has withheld consent for the proposed subtenants. Both parties agreed that the Landlord entered into a fixed term tenancy wherein it was to start in August of

2011 and end in May of 2012. The Tenant disputes the Landlord's reasons to withhold consent to sublet the manufactured home. The Tenant disputes the Landlord's reasons that the Tenants failed to obey the park rules by having proper maintenance of the rental pad. Both parties have submitted numerous documents for this hearing. The Landlord states that from the beginning of the fixed term tenancy of the sublet tenants, that they have repeatedly failed to obey the park rules. The Tenant has admitted that some of the breaches occurred in violation of the park rules, but disputes that some of the park rules are unreasonable. The Landlord has submitted numerous letters sent to the Tenant and the Sub-Tenant of the many breaches. The Tenant has disputed aspects of the Landlord's letters.

I find on a balance of probabilities based upon the evidence of both parties that the Landlord has not unreasonably withheld consent for the subtenants. Section 48 of the Manufactured Home Park Tenancy Regulations states,

48 For the purposes of section 28 (2) of the Act [*landlord's consent*], the landlord of the park may withhold consent to assign or sublet only for one or more of the following reasons:

(b) the request is for consent to sublet and the landlord, on the basis of relevant information, has reasonable grounds to conclude that the proposed sublease is likely to result in a breach of the home owner's obligations under the tenancy agreement and rules;

The Landlord has provided sufficient evidence (warning letters of breaching the park rules) to satisfy me based upon their prior rental history with the sub-tenants that they have reasonable grounds based that the sub-tenants will likely breach the rules. The Tenant's application is dismissed.

Conclusion

The Tenant's application is dismissed without leave to reapply.

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: January 18, 2013

Residential Tenancy Branch

