



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

TEXT

## **DECISION**

Dispute Codes AS, CNC

### Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by registered mail on December 28, 2012; however the respondent(s) did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is a request to cancel a notice to end tenancy that was given for cause and a request to allow the tenant to assign or sublet because the landlord's permission has been unreasonably withheld.

### Background and Evidence

This tenancy began in 1996 and presently the monthly rent is \$260.00.

On December 18, 2012 the tenant received a Notice to End Tenancy from the landlord by fax. The tenant is asking this notice to end tenancy be canceled.

The tenant also claims that the landlord will not give written permission to assign or sublet the tenancy and is therefore requesting an order allowing for the assignment or sublet.

## Analysis

The landlord did not appear at today's hearing to give reasons for the notice to end tenancy, and in the absence of those reasons it is my decision that this notice will be canceled and the tenancy continues.

The tenants had also been requesting an order allowing them to assign or sublet, however the tenants have provided no evidence to show that they have ever served the landlord with an official written request for consent to assign or sublet the rental property.

Section 44 of the Manufactured Home Park Tenancy Act 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).

Until such time as the tenants serve the landlord with the proper written request, the landlord is under no obligation to allow any assignment or sublet of the tenancy. (Copies of this form can be found on the Residential Tenancy Branch website)

Conclusion

The notice to end tenancy dated December 17, 2012 is hereby canceled and this tenancy continues.

I make no order regarding the request to assign or sublet the rental property because, as stated above, there is no evidence to show that the tenants have ever provided the landlord with the required written request to do so.

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 23, 2013

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Residential Tenancy Branch

