



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding B.F.C. Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, FF, O

Introduction

This hearing was convened by way of conference call in response to the tenant's application to cancel a 12 Month Notice to End Tenancy for Conversion of the Manufactured Home Park; other issues; and to recover the filing fee from the landlords for the cost of this application.

The tenant, the tenant's agent and the landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the tenant entitled to have this 12 Month Notice to End Tenancy set aside?

Background and Evidence

The parties agree that this tenancy started in 1979. The tenant owns the manufactured home and rents the pad from the landlord for \$150.00 per month.

The landlord testifies that this pad is located on a motel site and is zoned as a commercial site as agriculture land. The landlord testifies that they purchased this property six years ago and made it clear to the tenant then that the tenancy would have to end. The landlord testifies that they need the tenant to remove her home from the pad as it is required to put an access road through to the farm building. The pad will then be moved and the landlord testifies that they have a manufactured home that they need to bring onto the site to be occupied by farm workers. This is the only location for the landlord's manufactured home as it will hook into the pre-existing septic system and power. The landlord testifies that the farm workers who will occupy this home will not pay rent and the site will no longer be a rented facility. The landlord testifies that no permits or approvals are required for this change as the site is zoned for commercial and agriculture use.

The tenant's agent disputes the landlord's claims and testifies that a previous hearing took place after the landlord had served the tenant with a Two Month Notice to End Tenancy under the *Residential Tenancy Act*. At that hearing it was stated that this is a single manufactured home on a farm property which is captured by the definition stated in the *Act*. "Manufactured Home Park" means the parcel or parcels, as applicable, on which one or more manufactured home sites that the same landlord rents or intends to rent and common areas are located;' The tenants agent testifies that If the landlord is placing another manufactured home on this pad then this will also fall under the *Act* and the landlord is in contradiction of the *Act*.

The tenant's agent asks why the landlord cannot move the tenant's trailer over so it could still use the power and septic system. The landlord responds that this system will have to be used by the farm workers. The tenant's agent asks the landlord if he brings another manufactured home onto this site the farm workers will be paying rent as part of their wages. The landlord responds that there will be no charge in pad rent for this pad or home to any farm workers. The site will no longer be rented out.

The tenant's agent testifies that the tenant cannot afford to move her trailer and in a year will be homeless. The tenant's agent testifies that the tenant has received a cheque from the landlord in compensation for \$1,500.00 however the years rent is \$1,800.00. the tenants agent testifies that the tenant has not yet cashed this cheque.

The landlord responds that this was a mathematical error and the tenant will be sent another cheque for \$300.00. The landlord testifies that they are also not going to charge the tenant rent for the year on top of the compensation.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to the *Manufactured Home Park Tenancy Act* s. 42 which states:

Landlord's notice: landlord's use of property

42 (1) *Subject to section 44 [tenant's compensation: section 42 notice], a landlord may end a tenancy agreement by giving notice to end the tenancy agreement if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park.*

The landlord has testified that this is a single manufactured home on a commercial agriculture site that will no longer be used as a manufactured home park site. The landlord has testified that no permits or approvals are required and the site will be used to house farm workers in the landlords own manufactured home which will be relocated to a position adjacent to the tenant's current pad. The landlord has also testified that the pad the tenant's home now stands on will be used for a roadway to go to the farm building.

Having reviewed the evidence and testimony in line with the *Manufactured Home Park Tenancy Act*; I find that at present this is a single manufactured home on this site and the landlord seeks to use the site for something other than a manufactured home site. Even if the landlord does relocate his own manufactured home onto an area adjacent to this pad then if the landlords manufactured home is used for farm workers and they do not rent the site then the landlord has every right to do so and is entitled to serve the tenant with a 12 Month Notice to End Tenancy.

If this site is already zoned as commercial agriculture land then I find the landlord's testimony credible that permits or approvals are not required to put a private access road in to the farm buildings. Consequently, as the site will no longer be rented as a manufactured home park then I must uphold the Notice.

Conclusion

The 12 month Notice to End Tenancy for Conversation of the Manufactured Home Park remains in force and effect.

The tenant's application is dismissed in its entirety 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: October 08, 2013

Residential Tenancy Branch