



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding O.K. MOTEL AND TRAILER LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC, OPB, CNC AAT, FF

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Manufactured Home Park Tenancy Act*. The landlord applied for an order of possession and for a monetary order for the filing fee. The tenant applied for an order to cancel the notices to end tenancy and for an order directing the landlord to allow her guests access to the rental unit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside? Did the tenant breach a term of the tenancy agreement?

Background and Evidence

The tenancy started in 2004. The monthly pad rent is \$315.00 payable on the first of each month. On August 30, 2013, the landlord served the tenant with a notice to end tenancy for cause. The tenant disputed the notice in a timely manner. The landlord served a second notice to end tenancy on September 19, 2013.

The landlord testified that the only reason for the notices to end tenancy was that the tenant had sublet the rental unit without obtaining the permission of the landlord. The tenant agreed that she was aware of the requirement to obtain permission and did so on August 25, 2013. The sub tenant moved in on August 28, 2013. The landlord had not yet provided permission and upon review of the tenant's application, the landlord denied the tenant permission to sub let to the person who had already moved in.

The tenant made efforts to remove the sub tenant and the subtenant finally moved out on September 27, 2013. The landlord is asking for an order of possession based on this breach of the tenancy agreement by the tenant.

Analysis

In order to support the notice to end tenancy, the landlord must prove the grounds alleged, namely that the tenant has breached a term of the tenancy agreement.

I accept that the tenant did breach a term of the tenancy agreement, by subletting the rental unit without the landlord's permission. However, upon learning of the landlord's refusal to allow the tenant to sublet to this particular subtenant, the tenant made immediate efforts and was successful in ending the sub tenancy within a month.

Even though I find that the tenant did breach a term of the tenancy agreement it appears that this incident was isolated and not an ongoing pattern of behaviour for this tenant. Therefore I am not satisfied that the actions of the tenant justify bringing this tenancy to an end.

Accordingly, I allow the tenant's application and set aside the landlord's notices to end tenancy dated August 30, 2013 and September 19, 2013. As a result, the tenancy shall continue in accordance with its original terms.

The tenant would be wise to refrain from subletting without the prior approval of the landlord. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator, for consideration.

Since the landlord has not proven his case he must bear the cost of filing this application.

Conclusion

The notices to end tenancy are set aside. The tenancy will continue.

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 24, 2013

Residential Tenancy Branch