



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      AS, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to a tenant's application: for a Monetary Order for money owed or compensation for damage or loss under the *Manufactured Home Park Tenancy Act* (referred to as the "Act"), regulations or tenancy agreement; to allow the tenant to assign or sublet the tenancy because the landlords' permission has been unreasonably withheld; and to recover the filing fee from the landlord for the cost of this application.

The tenant appeared for the hearing along with both landlords, including the owner of the manufactured home park. No issues in relation to the service of the hearing documents in accordance with the Act and the evidence used in this hearing were raised by any of the parties.

Both parties provided affirmed testimony during the hearing and also submitted documentary evidence in advance of the hearing which was served to each party in accordance with the Residential Tenancy Branch Rules of Procedure.

### Issue(s) to be Decided

- Did the tenant follow the Act and the Manufactured Home Park Tenancy Regulation in seeking the consent of the landlord to sublet the manufactured home?
- Is the tenant entitled to monetary compensation for lost rent as a result of engaging into a tenancy with the subtenant?

### Background and Evidence

The tenant testified that he inherited the manufactured home from his father, who passed away in March, 2013. After this time, the tenant registered the manufactured

home on June 23, 2013 in his name. On December 12, 2013 the tenant and landlord completed a written tenancy agreement, which was provided as evidence for this hearing. The pad rent was established in the continuing amount of \$331.00 which is payable by the tenant to the landlord on the first day of each month. The tenancy agreement also stipulates that the tenant is required to have the written consent of the landlord to sublet the manufactured home site.

The tenant testified that he sought to sublet his manufactured home to a friend and as a result, he signed a residential tenancy agreement with his renter on December 18, 2013 for a fixed term of 6 months. However, the tenant testified that when he spoke to the landlords about subletting his manufactured home to his friend and provided them with his name, the landlords refused him the consent to sublet it, telling him that his friend was problematic.

The tenant testified that he had a verbal conversation with the landlords and did not give the landlords any prior notice to get their consent in writing. The tenant now claims that the landlords owe him 6 months worth of lost rent, relating to the tenancy he had signed with his sub-renter, in the amount of \$2,014.00 which he would have obtained had he been given consent by the landlords to sublet his manufactured home.

The male landlord testified that the tenant had been asked to complete their internal paperwork relating to the subletting of the rental suite, which the tenant failed to complete and provide to them. The male landlord also testified that the proposed sub renter was known to the landlords as he had resided in the manufactured park three years ago and had been verbally abusive to the landlords and created a disturbance in the manufactured home park while residing there. The landlords feared for the safety of the other tenants and the female landlord testified that they had a responsibility to their other residents to maintain a peaceful environment without any disturbance from a tenant who has a history of creating a problem in the park.

### Analysis

In relation to subletting a manufactured home site, Section 28 to the Act states that:

(1) A tenant may assign a tenancy agreement or sublet a manufactured home site only if one of the following applies:

(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.

(2) A landlord may withhold consent to assign a tenancy agreement or sublet a tenant's interest in a manufactured home site only in the circumstances prescribed in the regulations.

(3) A landlord must not charge a tenant anything for considering, investigating or consenting to an assignment or sublease under this section.

In addition, policy guideline 19 to the Act provides that an Arbitrator in a hearing concerning the subletting of a manufactured home site will consider whether the provisions of the Manufactured Home Park Tenancy Regulation have been followed.

As a result, I have taken into consideration the Act and the Regulation in my analysis of this case.

Part 7 of the Manufactured Home Park Tenancy Regulation provides specific instructions regarding the obligations of both the landlord and tenant in a sublease and these regulations must be followed by both parties in order to comply with the Act. Specifically, section 44 of the Regulation provides detailed guidance to the landlord and tenant on how the tenant should go about seeking the written consent of the landlord to sublet the manufactured home.

In this case, I find that the tenant failed to comply with the Act, the Regulation, and his tenancy agreement in requesting the landlord's consent to sublet the manufactured home as no written consent was obtained by the tenant. As a result, I find that the tenant's application is premature. As the tenant failed to meet his obligations in obtaining written consent from the landlord to sublet the manufactured home, I find that the landlord should not be held responsible for the monetary losses claimed by the tenant. As a result, I dismiss the tenant's application in its entirety without leave to re-apply.

However, I draw the landlords' attention to section 48 of the Regulations which lists the grounds for withholding consent to such a tenant's written request to sublet. Section 47(2) (b) of the Regulation also states that if the landlord withholds consent then the landlord must indicate the source and nature of the information that supports those

grounds. This should be provided in the tenant's written request and the landlord must also be prepared to support the grounds with evidence if the tenant makes an application for dispute resolution on the basis that consent has been unreasonably withheld.

### Conclusion

For the above reasons, I dismiss the tenant's application without leave to re-apply.

The landlords and tenant must take heed of the cautions mentioned in this decision and act within the boundaries of the Act and the Regulation.

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: February 07, 2014

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Residential Tenancy Branch

