



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0751548 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, AS, FF

Introduction

This is an application to cancel a Notice to End Tenancy that was given for cause, a request for an Order allowing the tenant to assign or sublet the rental pad, and a request for recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not to uphold or cancel a Notice to End Tenancy that was given for cause and whether or not the landlord has unreasonably withheld permission for the tenant to sublet or assign the rental pad.

Background and Evidence

This tenancy began in February of 2006 and the present monthly rent is \$300.00.

The applicant/tenant had her ex husband living in the rental unit; however he moved out of the rental unit and in February of 2014 the applicant/tenant moved new people into the manufactured home.

The applicant/tenant stated that she is selling the manufactured home that sits on the rental pad to the new people who have moved into the manufactured home.

The applicant/tenant did not apply to the landlord for permission to assign or sublet the rental pad.

The tenant stated that she did not believe she had to apply, as she has continued to pay the pad rent herself.

The landlord stated that he was not aware of the fact that new people had moved into the manufactured home until he started getting complaints from other tenants.

The landlord further stated that the applicant/tenant never applied to assign or sublet the tenancy, and therefore they were never given the opportunity to qualify these new people as tenants. It is his belief however that these people would not have qualified as tenants of the rental pad.

Analysis

It is my finding that since she is still paying the rent for this manufactured home site, the applicant/tenant has not assigned this tenancy; however she has sublet the manufactured home site to the people to whom she is selling the trailer.

Section 28 of the Manufactured Home Park Tenancy Act states:

28 (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.

Further Section 44 of the Manufactured Home Park Tenancy Regulations states:

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).

Therefore since the applicant/tenant has sublet this manufactured home site without first getting the landlords permission I'm not willing to cancel the Notice to End Tenancy.

Further, since the applicant/tenant has never submitted an application to the landlord to assign or sublet this tenancy, I'm not willing to issue an order allowing the tenant to do so.

Conclusion

The tenant's application is dismissed in full 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: July 28, 2014

Residential Tenancy Branch

