



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vista Village Trailer Park Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC, MNDC, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking an order to have the landlord comply with the *Manufactured Home Park Tenancy Act (Act)* and a monetary order.

The hearing was conducted via teleconference and was attended by the tenant, her advocate and the landlord's agent.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order disallowing a park rule and to a monetary order for compensation for unreasonable refusal of an assignment of the tenancy and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 28, 32, and 60 of the *Act*.

### Background and Evidence

The parties agree the tenancy began in March 2013 as a month to month tenancy for the monthly rent of \$450.00 due on the 1<sup>st</sup> of each month.

The tenant submits that she informed the landlord on July 24, 2014 that she was intending to sell her manufactured home as per the park rules that she had been given at the start of her tenancy. The landlord responded by asking the tenant if she had a copy of the new park rules updated at the beginning of July 2014 that updated the rules with regard to selling homes in the park.

The new park rule #11 stipulates:

"Before listing a home for sale the owner of the home to be sold must notify the Landlord. The Tenant must provide the Landlord with a full inspection report of the manufactured home including but not limited to electrical, roofing, heating plumbing including heat type, leaking windows, all health and safety issues such as mold in or on the walls or ceiling, the wiring, fire rating and safety of any wall panelling, environmental damage from leaking vehicles or an oil tanks, and all other deficiencies. These must be repaired prior to the sale of the home. The Home must comply with all current building and electrical codes and the roof must be in good shape. There must be a fire extinguisher, smoke detector, carbon monoxide detector. Wood

heaters are to be removed and replaced with a furnace or more environmentally friendly source of heat. The manufactured home must have vinyl siding and vinyl skirting in good shape with no rust, algae or moss. The color of the trailer must comply with the list of approved colors. The yard must be well kept and any damage to the grass due to cars or any other causes must be repaired. Any contaminated soil from leaking vehicles is to be removed and the site repaired. Oil tanks must be removed and any environmental damage from the tank and accessories is to be repaired and contaminated soil removed. Any alterations to the lot such as widening driveways or putting gravel where there should be grass are to be returned to grass at the owner's expense. Any unsightly fences or fences that do not comply with the height restrictions are to be removed. All fences that comply are to be painted and all sheds are to have siding to match the trailer. Any oversized trees are to be removed.

Once the manufactured home and the site is cleaned and repaired and the Tenant provides proof that all deficiencies in the inspection report were repaired and the outside of the trailer and grounds are in excellent condition. The tenant will be provided with the information needed to proceed with the sale (ie. Application for Tenancy, Park Rules, Electrical code, Authorization for a credit and criminal check, Instruction to Realtors) A for sale sign may be placed in the window of the home. All tenants must provide 30 days written Notice of their intention to vacate the park. All outstanding rent and any late fees must be paid in full.

The Tenant and the Purchaser must provide proof of transfer of title otherwise there is no tenancy and the Home will have to be removed from the park."

The landlord submits this rule was put into place for the safety of the park after concerns had been raised after a home in the park had had a fire. The tenant seeks clarification as to whether or not the landlord can enforce this park rule.

The tenant submits that she had secured purchasers and that she had submitted a Request for Consent to Assign Manufactured Home Pad Tenancy Agreement to the landlord (copy provided into evidence). The tenant submits that the landlord rejected the assignment because the applicants did not intend to reside in the rent manufactured home and that there was no information provided for the purchaser AB.

The landlord submits that the purchasers had crossed out the part of the Request for Consent form that indicated that they were not planning to move in to the manufactured home and that she could not do a credit or personal check on one of the purchasers.

The tenant submits that the purchasers had initialled the word "do" on the Request for Consent form to indicate that they did intend to move into the manufactured home and that this was clarified by email (submitted into evidence). The tenant also submits that they had repeatedly asked the landlord what additional information she required but she would not outline anything specifically.

The landlord submits that she was clear in what additional information was required. The tenant has submitted several emails where either the purchaser, the realtor or the tenant asked for more specific information about what the landlord wanted but no responses were provided other than one where the landlord stated the Request had been denied.

The tenant submits she believes the landlord unreasonably withheld consent to assign the tenancy and as a result she lost the sale of her manufactured home. She states as a result she has suffered a loss of \$2,449.35. The tenant breaks this amount down as follows: \$800.00 to \$1,000.00 for insurance for a vacant home; \$450.00 pad rent for the month of October 2014; \$1199.35 for travel back from Nova Scotia where she now lives to deal with matters at the manufactured home.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 48 of the Manufactured Home Park Tenancy Regulations states a landlord may withhold consent to assign a tenancy if among other reasons the following might apply:

1. The proposed purchaser does not intend to reside in the manufactured home and intends to use the manufactured home for business purposes or has purchased more than one manufactured home in the landlord's manufactured home park; or
2. The landlord has been unable to contact one or more references provided and as a result has insufficient information to make a decision about the request if the landlord has promptly advised the home owner of the landlord's inability to contact one or more of the references and made every reasonable effort to contact those references and any references provide by the home owner in place of those references.

In the case before me I find that the purchasers misunderstood the manner in which the landlord read the Request for Consent form and that they latter clarified for the landlord that they did intend to live in the manufactured home. As such, I find it was unreasonable for the landlord to withhold her consent to assign the tenancy on this ground.

Additionally, even if the purchasers had not intended to reside in the manufactured home the Regulation requires that the purchaser also intended to use it for a business purpose or they had purchased additional homes in the landlord's park. As there is no evidence of these issues I again find the landlord unreasonably withheld consent to assign the tenancy on this ground.

As to the issue of being not able to conduct reference or credit checks on the purchaser AB, I find that the purchase AB signed the Request for Consent form authorizing the landlord to check with the named reference on the form and to do any credit check she

felt necessary but instead she simply refused saying she did not have information for purchaser AB. In addition I find that despite attempts from the tenant; the purchasers and the relators to get clarity from the landlord on what information she wanted the landlord was unclear and in some cases simply non-responsive. For these reasons I find the landlord unreasonably withheld consent on the reference check ground.

While the tenant claims that she has suffered a loss as a result of this withholding of consent to assign I find the tenant has failed to provide sufficient evidence to establish the total loss claimed, as follows:

1. While the tenant submits that she has suffered a loss as a result of having to acquire insurance at a much higher rate she has provided only her best guess and has not provided any receipts confirming that she has purchased any or even quotes for such insurance. Therefore I dismiss this portion of the tenant's claim;
2. Despite the tenant's claim that as a result she has had to return to BC from Nova Scotia to deal with issues related to the refusal of consent I find that if was the tenant's own choice to move out of province prior to the finalization of the sale of her manufactured home and the landlord cannot be held responsible for the costs associated with this cost; and
3. I do accept that, despite the landlord's testimony that the tenant had not paid rent for the month of October 2014, the tenant is obligated to pay rent for the month of October 2014 which is a direct result of the landlord's unreasonable withholding of consent. As such, at the time of this hearing I grant the tenant compensation equivalent to 1 month's rent.

As to the issue of the park rule #11 I find the park rule is unenforceable for the following reasons:

1. Section 32 of the *Act* allows the landlord to establish rules that govern the operation of the manufactured home park, it does not allow the landlord to make rules regarding the possessions of the tenant including the interior of the homes such as whether or not they have leaky windows; have smoke detectors; fire extinguishers; or carbon monoxide detectors;
2. While Section 30 of the *Regulation* allows the landlord to establish park rules they must, among other things, not change a material term of the tenancy agreement. As the park rule imposes on the tenant many restrictions as to the condition of the manufactured home that cannot be a term of a tenancy agreement, let alone a material term, such as no leaky windows I find the landlord is attempting to impose conditions that are not imposed anywhere else and in fact cannot ever be terms of a tenancy agreement;
3. While Section 48 of the *Regulation* allows a landlord to withhold consent of assigning a tenancy if the manufactured home does not comply with housing, health, and safety standards required by law it does not allow the landlord to withhold consent to assign if there is a wood heater or leaky windows unless specifically prohibited by local bylaws; and

4. Finally, I find that the terms in this particular park rule are unclear and so overreaching that it is application to all tenancies may never allow any person to sell their manufactured home at any time.

### Conclusion

Based on the above, I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$500.00** comprised of \$450.00 compensation owed and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

However, I also note that at the time of the hearing the landlord had indicated the tenant had not paid October rent and the tenant did not dispute this. As such, I find that if the tenant has failed to pay rent for October, 2014 then \$450.00 of the above noted order is satisfied and the landlord is only required to pay the tenant the \$50.00 balance.

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 28, 2014

---

Residential Tenancy Branch

