



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Green Bay Landing Inc.  
and [tenant name suppressed to protect privacy]

## **REVIEW HEARING DECISION**

Dispute Codes: AS, FF

### Introduction

This hearing concerns the tenant's application to allow the tenant to assign or sublet because the landlord's permission has been unreasonably withheld / and recovery of the filing fee.

The original hearing was held on October 07, 2014 with a decision issued by that same date. In summary, the Arbitrator found that "the landlord has not **unreasonably** withheld consent to assign the tenancy," and the tenant's application was dismissed. Subsequently, the tenant applied for review consideration, and by way of review consideration decision dated November 13, 2014, the application was allowed. In the review consideration decision the Arbitrator documented, in part:

The decision made on October 7, 2014 is suspended until such time as the new hearing has been completed and a decision is given to the parties, in accordance with Section 74(3).

This review hearing was scheduled to commence at 9:30 a.m. on December 16, 2014. Both parties appeared and / or were represented at that time and gave affirmed testimony.

### Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

By way of a "Request for Consent to ASSIGN a Manufactured Home Site Tenancy Agreement" (the "Request for Consent form") dated July 05, 2014, the tenant sought the landlord's consent for assignment of the subject tenancy agreement. By letter dated

July 11, 2014, the landlord informed the tenant of additional information that was required. On July 12, 2014, the tenant provided the landlord with additional information in writing. Later, the Request for Consent form was returned to the tenant by date of July 14, 2014; in summary, the landlord withheld consent and noted as follows:

May be reconsidered upon receiving of requested and required documentation & information.

Thereafter, with a covering letter to the landlord by date of July 31, 2014, the tenant re-submitted the Request for Consent form along with some further information. Subsequently, the Request for Consent form was returned by the landlord to the tenant by date of August 08, 2014 and, in summary, the landlord withheld consent for the following reasons:

- Park owner is unable to obtain any credit references info. on the applicant
- Park owner is unable to obtain rental / mortgage payment info. on the applicant. No previous landlords listed on the application.
- Park owner is unable to confirm employment or the ability for applicant to pay rent

The Park owner is absolutely entitled to obtain a credit check on the applicant. This was confirmed to me via a Residential Tenancy Officer on Tuesday, August 5/14 [name of Officer] and again on Wednesday, August 6/14 [name of Officer].

The tenant then filed the application for dispute resolution on August 10, 2014.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website as follows: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)

Section 44 of the Regulation addresses **Written request for consent to assign or sublet**, and section 48 of the Regulation speaks to **Grounds for withholding consent to a request**.

Further, section 45 of the Act addresses **Response within 10 days**, in part:

45(1) The landlord of the park must provide the home owner with a written response under section 44 [*written request*]

- (a) in the form approved by the director,
- (b) in accordance with section 81 of the Act [*service of documents*], and
- (c) promptly, and in any case so that the home owner receives the response in accordance with section 83 of the Act [*deemed receipt*] within 10 days of the landlord's receipt of the request.

(2) If a landlord withholds his or her consent for the home owner to assign or sublet, the landlord's response must indicate

- (a) the grounds under section 48 [*grounds for withholding consent*] on which he or she is withholding consent, and
- (b) the source and nature of the information that supports those grounds.

Section 44 of the Regulation sets out what specific information must be provided in the tenant's request for landlord's consent. Based on the documentary evidence and testimony of the parties, I find that the information required pursuant to statute has now been provided. In the result, **two (2) ORDERS** are hereby issued against the landlord, as follows:

- 1) The landlord is hereby **ORDERED** to do due diligence in following up with the information which has been provided by the tenant; this includes but is not necessarily limited to, obtaining a credit report and contacting the references, one of which is an employer.
- 2) The landlord is hereby **ORDERED** to provide the tenant with a written response to the tenant's request by not later than **midnight, Wednesday, January 07, 2015**.

In the event that the landlord withholds consent and the tenant considers that consent has unreasonably been withheld, the tenant has the option of filing another application for dispute resolution. In the meantime, the tenant's application is hereby dismissed with leave to reapply.

Finally, section 75 of the Act addresses **Review of director's decision or order**, and provides in part:

75(2) The director may conduct a review

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

Pursuant to all of the above, the original decision dated October 07, 2014 is hereby set aside.

Conclusion

The original decision dated October 07, 2014 is hereby set aside.

Two (2) orders are issued against the landlord.

The tenant's application is hereby dismissed with 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: December 17, 2014

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Residential Tenancy Branch

