



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 478970 BC Ltd (DBA Lakeshore Place)
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF, CNC, AS

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlords. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy that was given for cause and a request for recovery of the filing fee.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for cause, a request to allow the tenant to assign or sublet because the landlord's permission has been unreasonably withheld, and a request for recovery of the filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the tenant has assigned or sublet the rental site without the landlord's written consent and whether or not the landlord has unreasonably withheld consent for the tenant to sublet or assign the rental site.

Background and Evidence

In a previous hearing held in November of 2014 the Arbitrator stated the following:

- Given the evidence, the Act and the regulations, I find that the tenant has a right to formally request the landlord's consent to sublet to a specific renter. I find that the Act requires both parties to strictly follow the mandatory steps outlined in the Regulation.

Subsequent to the above hearing the tenant signed a Residential Tenancy Agreement and sublet the rental unit to her husband and son.

The landlord testified that at no time did the tenant provide him with a request to sublet the rental unit in the required form laid out in the regulations, she simply moved her husband and son into the rental unit without getting any permission to do so.

The landlord has therefore served the tenant with a one-month Notice to End Tenancy that states "tenant has assigned or sublet the rental unit/site without the landlords written consent".

Analysis

It is my finding that the tenant failed to take the mandatory steps outlined in the regulation. The tenant failed to serve the landlord with a request to sublet the rental unit and simply signed the tenancy agreement and sublet the unit without getting or even requesting the landlord's prior written consent to do so.

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.

In this case none of the above applies. The tenant did not obtain the prior written consent of the landlord to sublet the rental unit, the tenant does not have an order from the director authorizing a sublease, nor does the tenancy agreement authorize the sublease.

The tenant admitted at the hearing that she did not follow the regulations, and did not submit a request to the landlord to sublet the unit.

It is my finding therefore that the landlord has not unreasonably withheld his consent to sublet the rental site, as a proper request for consent was never given to the landlord.

Therefore it's my decision that I will not cancel the Notice to End Tenancy and this tenancy ends pursuant to that notice. The tenant's application is therefore dismissed and I have issued an Order of Possession to the landlord for 5:00 p.m. on June 30, 2015.

I have also issued an Order for the tenant to pay \$50.00 to the landlord for recovery of the landlords filing fee.

Conclusion

The tenant's application has been dismissed in full without leave to reapply.

I have allowed the landlords request for an Order of Possession and recovery of the filing fee.

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: June 01, 2015

Residential Tenancy Branch

