



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, FF

Introduction

The tenant applies to cancel a Notice to End Tenancy given by the landlord. The reason for the Notice appears to have been that the tenant had sublet a manufactured home site without obtaining the landlord's prior written consent.

The tenant has brought her application as "landlord" and listed her landlord as "tenant." The style of cause in this decision has been amended to show the true relationship.

The sub-tenant in question has now left. As a result, there is no longer any reason to determine the validity of the Notice. There is no claim for any monetary relief.

However, it is apparent that the essence of this dispute will surface again in the near future as there are presently two pending applications regarding the subletting of the same manufactured home site. The file numbers of those two applications are shown on the cover page of this decision.

The essential issues are two: whether or not the landlord is entitled to demand prior approval of a subtenant even though no prior approval was demanded for new subtenants in the past (an allegation denied by the landlord) and whether the landlord can demand of a subtenant personal information such as driver's licence number, social insurance number or consent to a criminal record search.

Without a substantive case before me I am not in a position to make any binding finding about either of those matters. However, the parties' attention was directed to s. 40(1)(h) of the *Manufactured Home Park Tenancy Act* (the "Act") which provides:

(h) the tenant purports to assign the tenancy agreement or sublet the manufactured home site without first obtaining the landlord's written consent or an order of the director as required by section 28 [assignment and subletting];

The parties' attention was directed to the limited reasons for which a landlord may withhold prior consent, and as set out in the Manufactured Home Park Tenancy Regulation.

It was also stated that a landlord who declines to demand approval for one subtenancy is not thereby legally foreclosed from demand prior approval for a subsequent subtenancy.

The parties' attention was also drawn to the form RTB-25 "Request for Consent to Sublet a Manufactured Home Site Tenancy Agreement" which states, "[t]he home owner and proposed subtenant are not required to provide any further information other than that required on the form."

Conclusion

The tenant's application is dismissed. As both parties have hopefully received some benefit from this hearing, I allow the tenant to recover one half, \$25.00, of her filing fee and I authorize her reduce her next rent due by \$25.00, in full satisfaction.

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 23, 2015

Residential Tenancy Branch

