



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OLC, AS, MNDC, FF

### **Introduction**

This hearing dealt with an application by the tenant, pursuant to the *Manufactured Home Park Tenancy Act*. The tenant applied for an order directing the landlord to comply with the *Act* and to allow the tenant to sublet the rental pad. The tenant also applied for a monetary order for the recovery of the filing fee and for compensation for the loss of a sale of their home when the landlord rejected the application of a prospective buyer.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### **Issues to be decided**

Did the landlord unreasonably reject the application made by the tenant's buyer for approval to reside in the home park? Is the tenant entitled to compensation? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

Both parties agreed to the following: The tenancy started on June 15, 2010. The rental unit consists of a pad in a manufactured home park. The tenants own the mobile home. The monthly pad rent is \$395.00 due on the first of each month.

The landlord testified that the tenants have had their mobile home up for sale for a few years and were not successful in finding a buyer until early March 2016. The tenant filed a copy of the accepted offer in a contract of purchase and sale of a manufactured home, on a rental pad. The accepted offer was for a purchase price of \$21,000.00.

As required by the landlord, prospective tenants are required to fill out an application form to be approved by the landlord. Accordingly, the buyer filled out an application to be accepted as a tenant in the home park. The landlord reviewed the application and rejected it.

The landlord stated that she rejected the application based on her determination that the applicant (buyer):

- Had a zero credit score
- Lived with his parents and therefore did not have a landlord reference other than his parents
- The reason for moving out of his parents' home is "*Tired of living with parents*"
- Provided two references instead of three
- Did not provide adequate employment history.
- Name on title would include the applicant's father
- Did not fill out the form appropriately

The landlord stated that based on the above criteria she concluded that the applicant/buyer was not in a position to pay rent and would not be a good fit in the community that resided in the home park.

The landlord agreed that she had not checked any references that the applicant had provided and also did not speak with his employer or current landlord. The landlord stated that based on the application, she decided that the applicant was unable to get financing on his own and had to have his father's name added to the title in order to qualify for financing. The landlord agreed that she did not meet with the applicant to assess his suitability to fit into the home park community but based her decision on his written application and concluded that he would not be a good fit with the other community members that reside in the home park.

The tenants testified that the applicant/buyer is a young man in his early twenties who has lived at home up to now. He only provided his current employment details and did not include past employment. The tenants testified that due to his age his employment history was limited and he not have enough credit to generate a score. The tenants also stated that the application form did not specifically ask for three references and therefore the applicant provided two. The landlord filed a copy of the buyer's application along with a copy of the credit score report of the buyer.

The credit report indicates that the buyer has no legal items, no collections, no garnishments, no bankruptcies and no unpaid accounts in his credit history. The buyer's credit score is zero.

The tenants testified that with the rejection of the buyer's application, the deal fell through. The tenants feel that the landlord unreasonably denied the buyer's application and therefore have now lost the sale which has resulted in a loss of \$21,000.00. The tenants are claiming this amount as compensation.

### **Analysis**

Based on the sworn testimony of the both parties, I find that the tenants had an accepted offer for the sale of their home but this offer fell through due to the rejection of the buyer's application to reside in the home park. I must now determine whether the landlord unreasonably denied the buyer's application which resulted in a loss to the tenants.

Based on the landlord's testimony, I find that the landlord based her decision on her assumption of the buyer's ability to pay rent and whether he would fit in the home park community. In arriving at her decision to reject the application, the landlord took into account the credit score of zero, the lack of a substantial employment history, the fact that the buyer was living at home with his parents, needed his parents' support to qualify for a mortgage and had not filled out the application form appropriately.

Based on the landlord's testimony, I find that the landlord did not make any calls to the references provided by the buyer, did not meet with the buyer and did not take into consideration that the buyer is in his early twenties and is moving out of his parents' home with the financial help of his parents.

Due to his young age, the buyer does not have enough credit history to generate a score and also does not have a long history of employment. I find that had the landlord met with the buyer she would have been in a better position to determine whether the buyer would fit in the community that resided in the home park.

Based on the above, I find that the landlord did not take the trouble to call references, meet with the buyer or take into consideration the age of the buyer. The landlord did not carry out an in depth assessment of the buyer's application and based her rejection of his application on a superficial screening of the application.

## Grounds for withholding consent to a request

**48** For the purposes of section 28 (2) of the Act [*landlord's consent*], the landlord of the park may withhold consent to assign or sublet only for one or more of the following reasons:

- (a) the request is for consent to assign, and
  - (i) the landlord, on the basis of relevant information, has reasonable grounds to conclude that the purchaser is unlikely to comply with the tenancy agreement or applicable rules, or
  - (ii) the landlord, on the basis of credit information, has reasonable grounds to conclude that the proposed purchaser is unable or unlikely to pay the rent;
- (b) the request is for consent to sublet and the landlord, on the basis of relevant information, has reasonable grounds to conclude that the proposed sublease is likely to result in a breach of the home owner's obligations under the tenancy agreement and rules;
- (c) the request is for consent to sublet and the tenant has agreed in the tenancy agreement not to sublet;
- (d) there is not at least one proposed purchaser or subtenant in a proposed assignment or sublease who meets the age requirement in a park where 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*];
- (e) the proposed purchaser or subtenant does not intend to reside in the manufactured home and
  - (i) intends to use the manufactured home for business purposes, or
  - (ii) has purchased more than one manufactured home in the landlord's manufactured home park;
- (f) the tenancy agreement is a monthly tenancy and the manufactured home has been removed from the manufactured home site or destroyed;

(g) the landlord, as a result of being unable to contact one or more references provided under section 44 (3) (e), (f) or (g) [*required information*], has insufficient information to make a decision about the request, if the landlord

(i) promptly advised the home owner of his or her inability to contact one or more of those references, and

(ii) made every reasonable effort to contact those references and any references provided by the home owner in place of those references;

(h) the home owner owes the landlord arrears of rent or an amount due under an order of the director;

(i) the manufactured home does not comply with housing, health and safety standards required by law.

[am. B.C. Reg. 234/2006, s. 9.]

Based on the testimony, documentary evidence and s.48 (g) of the *Manufactured Home Park Tenancy Act*, I find that the landlord did not make reasonable efforts to contact references provided by the home owners and accordingly did not have sufficient information to make a decision on the buyer's application. I further find that the landlord unreasonably rejected the buyer's application.

Section 60 of the *Manufactured Home Park Tenancy Act* states that if damage or loss results from a party not complying with the *Act*, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

The sale of the mobile home fell through based solely on the landlord's rejection of the buyer's application to be permitted to reside in the home park. Since I have found that the landlord unreasonably denied the buyer's application, I find that the landlord has breached the *Act* which has resulted in a loss to tenant.

*Residential Tenancy Policy Guideline #16* states that an arbitrator may award "nominal damages" which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right.

Based on the magnitude of the lost opportunity to sell their home and the fact that the tenants found a buyer after a few years of unsuccessful attempts to find one, I award the tenants compensation in the amount of \$1,000.00.

The tenants have proven their case and therefore are entitled to the recovery of the filing fee of \$100.00.

I grant the tenants a monetary order under section 67 of the *Residential Tenancy Act*, for \$1,100.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the tenants a monetary order in the amount of **\$1,100.00**.

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, 2016

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Residential Tenancy Branch