



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1074277 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 40;
- authorization to recover their filing fee for this application from the landlord pursuant to section 60.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the submitted documentary evidence of the other party. Both parties confirmed that they understood the issues and were prepared to start the hearing. As both parties have attended and have confirmed receipt of the submitted documentary evidence, I find that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Are the tenants entitled to an order cancelling the 1 Month Notice?
Are the tenants entitled to a monetary order for recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that the landlord served the tenants with a 1 Month Notice dated September 28, 2017 which they personally received on September 28, 2017. The 1 Month Notice sets out an effective end of tenancy date of October 31, 2017 and provides one reason selected as:

Tenant has assigned or sublet the rental unit/site without the landlord's written consent.

The 1 Month Notice also sets out the details of cause noted as:

On or around the end of July, R.B., came into my office, to give me 2 S. Boxes, and to tell me that they were moved out at the trailer, and that S.R. would be moving in, and would be receiving mail here. He never gave me any notice that they were moving, nor did I know he was renting it out.

The landlord claims that at no time was consent written or otherwise given to the tenants to assign/sublet the rental unit.

The tenants confirmed in their direct testimony that at no time was the landlord's consent requested to assign/sublet the rental unit. However, the tenants claimed that the landlord was aware of their intentions and did not object to them. The tenants relied upon a copy of a submitted "Request for Consent to Sublet a Manufactured Site" dated October 2, 2017 which the landlord has failed to respond to within the allowed 10 days. The landlord provided affirmed testimony that this document was received after the 1 Month Notice was served as shown by the date of October 2, 2017.

Analysis

Section 40 of the Act states that a landlord may end a tenancy by giving notice to end the tenancy that the tenant(s) have assigned the tenancy agreement of sublet the manufactured home site without first obtaining the landlord's written consent or an order under the Act.

Section 40 (4) the tenant(s) may dispute a notice under this section by making an application within 10 days after the date the tenant(s) receives the notice.

In this case, both parties have confirmed that the landlord served the tenants with a 1 Month Notice dated September 28, 2017 in person on September 28, 2017. Both

parties confirmed that the reason for the 1 Month Notice was that the landlord did not give written consent to assign/sublet the rental unit.

The tenants confirmed in their direct testimony that at no time did they make a request for the landlord's written consent to assign/sublet the rental unit until October 2, 2017 after being served with the 1 Month Notice dated September 28, 2017.

I find based upon the undisputed evidence of both parties that the tenants' application is dismissed. The landlord has proven sufficient evidence that the tenants' had assigned/sublet the rental unit without the landlord's written consent. The 1 Month Notice dated September 28, 2017 is upheld. As the effective end of tenancy date has passed, I grant the landlord an order of possession effective after 2 days upon being served to the tenants.

Conclusion

The tenants' application is dismissed without leave to reapply.

The landlord is granted an order of possession.

This order must be served upon the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: January 09, 2018

Residential Tenancy Branch