



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes AS

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenants under the *Manufactured Home Park Tenancy Act* (the “Act”) seeking authorization to assign the mobile home sit tenancy agreement as the Landlord has unreasonably withheld consent.

The hearing was convened by telephone conference call and was attended by the Landlord and the Tenant S.R., both of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”). However, I refer only to the relevant facts and issues in this decision. At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the e-mail addresses provided in the hearing.

### Preliminary Matters

At the outset of the hearing I identified that I did not have any documentary evidence before me from the Applicants who are the Tenants. The Tenant S.R. testified that they submitted their documentary evidence at the Service BC location at the time of the Application. The Landlord acknowledged receiving the documentary evidence from the Tenants and testified that he re-submitted their evidence as part of his evidence package, which I did have before me for consideration. I went through the documentary evidence submitted by the Landlord with the parties and confirmed that the only documentary evidence submitted by the Tenants that was not before me for consideration as part of the Landlord’s evidence were documents relating to matters previously heard and decided by the Branch.

As a result, I found that I had before me the relevant documentary evidence from both parties and the hearing proceeded based on the documentary evidence before me.

Issue(s) to be Decided

Are the Tenants entitled to an order allowing them to assign their tenancy agreement as the Landlord has unreasonably withheld consent?

Background and Evidence

The Tenants own a mobile home in the mobile home park for which D.M. is the Landlord and the parties agree that the Tenants have been denied permission to assign their tenancy to prospective purchasers on several previous occasions. The parties also agreed that two previous hearings have been conducted with the Residential Tenancy Branch (the "Branch") regarding two previous instances in which consent to assign was withheld by the Landlord and that the matters were decided in favor of the Landlord.

As a result of the above, the parties agreed that the matter before me for hearing relates only to the Landlord's most recent denial of the Tenants' request to assign their mobile home site tenancy agreement.

The Request for Consent to Assign a Manufactured Home Site Tenancy Agreement (the "Request to Assign") in the documentary evidence before me lists L.D.T. and L.N.T. as purchasers on pages two and four, however, only L.D.T. is listed as the purchaser on page three. On page three it states that L.D.T. intends to purchase the mobile home and that L.N.T. will be an additional occupant. No previous Landlord information was provided for L.D.T. as they have owned and occupied their own home since 1977. No previous landlord information was provided for L.N.T. and personal references were not provided for either L.N.T. or L.D.T.

The Landlord's written response states that consent for assignment of the site tenancy agreement to the purchaser(s) indicated on the application is withheld because a copy of all written terms and the park rules are not attached, there are outstanding orders and notices, and the purchaser's information, references, and credit check application are incomplete. Neither party raised any concerns regarding the timelines in section 45 of the regulation.

The Landlord testified that when he called L.D.T., who is listed as the purchaser on page three of the Request to Assign, he was advised by L.D.T. that he is actually going

to be renting the mobile home off his brother, L.N.T., as he cannot purchase the mobile home himself as he is currently in default with the bank and losing his own home. The Landlord also testified that L.D.T. advised him that he would not complete the credit check form due to his current credit situation. The Tenant testified that she was aware that L.D.T. is losing his home due to his inability to make his mortgage payments. The Landlord testified that he has not contacted L.N.T as he does not have contact information for this person and the Tenant acknowledged that she has had no personal contact with L.N.T herself.

The Landlord stated that a copy of the park rules was not attached to the Request to Assign and that L.D.T. advised him that he had not been provided with a copy of the park rules. The Landlord testified that L.D.T. was unaware that the park rules prohibit the rental of mobile home, which is a problem, as he cannot purchase the rental unit himself due to his financial and credit situation and is intending to rent the mobile home from L.N.T., who will not residing there with him. The Landlord submitted a copy of the park rules which states that a mobile home that has been successfully purchased by a new owner cannot be rented out or sublet to a tenant or second party. The Tenant testified that L.D.T. was given the park rules but acknowledged that a copy had not been submitted to the Landlord along with the Request to Assign. The Tenant also testified that although she has not personally had contact with L.N.T. she believes that both parties will be purchasing the unit and living in it together. No documentary evidence was submitted in support of her testimony.

Further to this the Landlord testified that there are outstanding orders and notices for the Tenants to comply with the park rules and that the mobile home does not comply with housing, health, and safety standards required by law as the hand railings outside are rotten and not to code, the skirting is deficient and does not comply with the park rules, and there is a leak in the roof. Although the Landlord testified that a building inspector had attended in relation to the roof and that a repair had been ordered which requires a building permit, no documentary evidence was submitted in support of this testimony and the Tenant denied ever having been advised that there was an issue by a building inspector. Both parties also acknowledged that there are no current outstanding orders from the director of the Branch in relation to this tenancy.

### Analysis

Section 28(2) of the *Act* states that a landlord may withhold consent to assign a tenancy agreement or sublet a tenant's interest in a manufactured home site only in the circumstances prescribed in the regulations. Section 48 of the regulations states that a

landlord may withhold consent if the request is for consent to assign and 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 the proposed purchaser is unable or unlikely to pay the rent.

Both parties acknowledged awareness that L.D.T. has financial difficulties which are resulting in the loss of his current home. Although the Tenant stated that L.D.T. is purchasing the property with L.N.T., L.D.T. is the only purchaser listed on page three of the Request to Assign and no credit information was provided for either party. Further to this, neither the Landlord nor the Tenant present in the hearing has had direct contact with L.N.T. As a result, I find that the Landlord had sufficient cause pursuant to section 28(2) of the *Act* and section 48(a) of the regulations to withhold consent as he has reasonable grounds to conclude that the proposed purchaser is unable or unlikely to pay the rent. Based on the above, the Tenant's Application is dismissed without leave to reapply.

As I have already found that the Landlord had reasonable grounds to withhold consent because the proposed purchaser is unable or unlikely to pay the rent, I do not find it necessary to make any finding of fact or law in relation to the other reasons given by the Landlord for withholding consent.

As the parties have had several hearings with the branch in relation to the assignment of the mobile home site tenancy agreement, I encourage both parties to review section 28 of the *Act* and sections 43-52 of the regulations. In particular, I encourage the Tenants to familiarize themselves with the grounds for withholding consent under section 48 of the regulations.

### Conclusion

The Tenant's Application is dismissed without 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: March 26, 2018

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Residential Tenancy Branch