



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WHISPERING SPRUCE MOBILE HOME PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: AS DRI FF

Introduction:

Both parties attended and gave sworn or affirmed testimony. They parties agreed that the tenant's Application for Dispute Resolution hearing package was served by registered mail. The tenant applies pursuant to the *Manufactured Home Park Tenancy Act* (the Act) for orders as follows:

- a) That he be permitted to assign or sublet the site to himself as purchaser of the manufactured home on the site;
- b) To dispute rent increase which were not made in accordance with sections 34, 35 and 36 of the Act; and
- c) To recover the filing fee for this Application.

Issues to be Decided:

Is the tenant entitled to an order that he can sublet or assign the site to himself? Has the tenant proved on the balance of probabilities that the rent increases of the landlord were not in conformance with the Act? Is he entitled to recover the filing fee for this application?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The tenant said he had rented the trailer in the park since 2010 and paid rent for the trailer to the owner and rent for the site to the park. He bought the trailer in January 2018 and has attempted to assign the site to himself and dispute the rent for the site. As part of his Application, he attached a section E which states he requested reimbursement for the rent increase that was applied to the site when he moved in over what the owner had been paying. He wrote letters on January 4 and 5, 2018 and received no reply but his February rent cheque was not accepted.

The landlord provided evidence of a form completed by the owner, "Request for Consent to Assign a Manufactured Home Site Tenancy Agreement". It had been

completed by the female owner and signed on January 4, 2018. It stated the rent for the site was \$251.37. The owner of the park responded on January 18, 2018 stating that consent was withheld for the reasons stated:

1. Request for Consent...is incomplete as registered owners' signatures are missing for J.C. as is on the original Tenancy Agreement;
2. Home Owner has not provided sufficient references other than themselves
3. Insufficient information to run a credit check on purchaser.

The landlord explained that a male and female had the tenancy agreement for the site but only the female had applied for consent to assign it. The male needed to sign it as well to ensure the park was complying with legal requirements. The site rent information was also incorrect as their records currently show it as being \$304.08 after the most recent rent increase. Counsel for the landlord suggested an adjournment might be in order.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

Rule 6 of the Residential Tenancy Branch Rules of Procedure provide rules on rescheduling and adjournments. Rule 6.1 states the Branch will reschedule if written consent is received from both parties at least 3 days before the scheduled date for the hearing. I find no advance request or consent was made.

Rule 6.3 provides an arbitrator may adjourn the proceeding after the hearing commences. The criteria for granting an adjournment are set out in Rule 6.4. In applying the criteria, I find an adjournment is unlikely to contribute to a resolution of the matter as explained in the Decision below as the applicant has no standing as he is the incorrect person to bring this application. I declined to grant an adjournment and the hearing proceeded.

I find section 28 of the Act states a tenant may assign 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;

s. 44 of the *Manufactured Home Park Regulations* sets out the requirements for the written request to consent or sublet.

I find the legal tenants of the site have not fulfilled the requirements of section 28 of the Act and section 44 of the Regulation in their written request to assign their site.

I find the applicant in this matter is a subtenant who rented the home from the owners and he had no lease of the manufactured home park site. Therefore, I find he has no standing in this matter as he has no legal authority to request consent to assign the site which was leased by other persons to himself. Likewise, I find he has no standing to dispute the rent of a site which is not leased under his name.

Counsel for the landlord suggested that it might be possible to settle this matter if the tenants who leased the site contacted the landlord and completed all paper work as required.

Conclusion:

I dismiss the application of the subtenant (named as tenant in the application) without leave to reapply as he currently has no standing in this matter. No recovery of his filing fees paid is awarded due to lack of success.

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: April 12, 2018

Residential Tenancy Branch