



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: AS, FF

Introduction

This is the Tenant's application for an Order allowing the Tenant to assign or sublet because the Landlord's permission has been unreasonably withheld; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

Preliminary Matters

At the outset of the Hearing, it was established that the Tenant has purchased the manufactured home (the "Home") from the Landlords, but has not completed the transaction by registering the Home in her name on title. Although the Landlords remain on title as owners of the Home, the parties have agreed that the Tenant has purchased the Home and therefore I find that this matter falls within the jurisdiction of the Manufactured Home Park Tenancy Act.

The Tenant seeks to assign the tenancy agreement to her daughter, under the provision of Section 58(1)(g) of the Act, which states:

Director's orders: breach of Act, regulations or tenancy agreement

58 (1) Without limiting the general authority in section 55 (3) [*director's authority respecting dispute resolution proceedings*], if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may make any of the following orders:

(g) that a tenancy agreement may be assigned or a manufactured home site may be sublet if the landlord's consent has been withheld contrary to section 28 (2) [*assignment and subletting*].

Section 28(2) of the Act states:

Assignment and subletting

28 (2) 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.

Part 7 of the Manufactured Home Park Tenancy Regulation (the "Regulations") set out the procedure that tenants and landlords must follow with respect to assignment or subleasing a tenancy agreement. At the time that the Tenant filed her Application, the parties had not yet followed the procedures set out in Part 7 of the Regulations.

I find that the Tenant's application is premature because she has not completed the purchase of the Home by registering her name on title and the parties have not yet completed the procedures set out in Part 7 of the Regulations.

A copy of Part 7 of the Regulations is attached to this Decision. In particular, I draw the parties' attention to Sections 47 and 48 of the Regulations.

The Tenant's application is **dismissed with leave to reapply**.

Conclusion

The Tenant's application is **dismissed with 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: June 20, 2012.

Residential Tenancy Branch