

- a) That Respondent's demand that he remove a four foot high fence from the perimeter of his property violates RSA 205-A:2(VII) in that Complainant had prior permission from the park owner to erect and maintain the fence.

PROCEDURAL STATUS

4. The hearing in this matter was scheduled for Monday, September 14, 1998 and notice thereof was provided to all parties. On the morning of September 14, 1998, Mr. Olson contacted the Board's administrative secretary by telephone to inform her that, due to a sewerage problem at the park, he would not be available for the scheduled hearing. He requested a continuance and was informed that, under the circumstances, the administrative secretary was without authority to accede to his request.
5. At the scheduled hearing time, Complainant was in attendance and prepared to go forward. Mr. Olson did not attend the scheduled hearing.
6. Under the Board's administrative rules, parties may seek a continuance of a hearing, by notifying the board in writing, at least 10 business days in advance of a hearing of the reason for such a request. N.H. Admin R. Man 201.19 (a)(1). The criteria for granting a continuance are set out at N.H. Admin. R. Man 201.19 (f) Continuances shall be granted only in extraordinary circumstances, including: (1) Illness or injury have prevented a party or material witness from preparing for the hearing or will prevent the party or witness from attending the hearing; (2) A party has a conflicting hearing in another tribunal that cannot be continued; (3) Material evidence will be unavailable for the hearing despite the party's due diligence to obtain the evidence for the hearing, and if the evidence could be introduced in writing, the other party will not consent to the introduction solely in writing or the proffering party would be prejudiced by limiting it to a written submission.

7. Here, Mr. Olson made none of the showings appropriate for this Board to grant continuance of the hearing. Rather, he simply contacted the administrative secretary by telephone to complain of an unspecified maintenance problem at the park which demanded his attention. He submitted no written information to the Board setting out the reason for his sudden request; rather, he simply failed, without further specific explanation to attend the duly noticed hearing in this matter.
8. As a result of this occurrence, the Board will accept the testimony and submissions of Complainant as uncontroverted and so makes the following findings of fact and law:

FINDINGS OF FACT

9. Complainant purchased a mobile home and leased space at 5 Bradford Drive within the park under a lease agreement dated 5/9/95. Respondent was provided with and acknowledged in writing that he had received a copy of the park rules.
10. Section 1 of the park rules provides that sheds and fences may be erected by tenants on leased property, "with approval of management."
11. In connection with, and before executing his lease of property from the Respondent, Complainant inquired of Respondent whether he could erect a fence on his lot and was informed that sheds and fences were permitted providing they did not interfere with Respondents access to water and sewerage lines.
12. Relying on this representation, Complainant erected a four foot high fence along the perimeter of his property.

13. Respondent states in his Response form that Complainant did not and does not have permission to erect the fence as constructed; and further states that the fence as constructed encroaches on another lot and impedes access to a water main and water service line. As noted above, Mr. Olson did not appear at the hearing and so presented no testimony or evidence to support these contentions.

CONCLUSIONS OF LAW

14. Accordingly, the Board finds that Complainant had and has permission to construct a fence on his leased property and the record is devoid of evidence that the fence as constructed violates any park rule.

15. Therefore, the Board finds that Respondents demand that Complainant remove a four foot high fence from the perimeter of his property violates RSA 205-A:2(VII) in that Complainant had prior permission from the park owner to erect and maintain the fence.

CONCLUSION AND ORDER

WHEREFORE, Complainant's request for relief is GRANTED and Respondent is hereby ORDERED to cease demanding that Complainant remove the fence as constructed from his property.

ORDERED, this ___ day of _____, 1998
BOARD OF MANUFACTURED HOUSING

By: _____

Ken Nielsen, Esq., Chairman

Members participating in this action:

Richard R. Greenwood
Hon. Warren Henderson
Hon. Robert J. Letourneau
Kenneth R. Nielsen, Esq.
Jimmie D. Purselley
Florence E. Quast

Linda J. Rogers

CERTIFICATION OF SERVICE

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid to Bruce J. Goulet and Lawrence E. Olson, Jr., Olson's Mobile Home Court.

Dated: _____

Anna Mae Twigg, Clerk
Board of Manufactured Housing