

THE STATE OF NEW HAMPSHIRE
BOARD OF MANUFACTURED HOUSING

Rachel Comeau)	
“Complainant”)	Docket Nos. 007-00
)	
v.)	
)	
Greenville Estates Co-operative, Inc.)	
“Respondent”)	

FINAL ORDER

The Board of Manufactured Housing (“the Board”) makes the following final order in the above-referenced matter.

1. On January 22, 2001 the Board issued its’ Findings of Fact, Conclusions of Law, and Order (hereinafter “Original Order”) in this matter in which the Board found that Rule 1(d) of the Rules of the Park which stated that “The owner of the Mobile Home will be responsible for all attorneys fees pertaining to that residence.” was unreasonable as applied to the Complainant for various legal and administrative actions (See V. Order (a), (b) and (c)) and ordered the parties to submit itemized statements on any impermissibly charged fees to the Board (See V. Order (d)).
2. On May 14, 2001 after a second hearing the Board issued a Supplemental Order that the Park had impermissibly charged or collected \$869.50 from the Complainant and ordered restitution of that amount subject to any legitimate set-offs to the Park such as unpaid rent owed at the time Complainant vacated the Park.
3. On May 30, 2001 the park filed a Motion For Reconsideration and Request for Additional Documentation alleging that the Complainant had never in fact paid the impermissibly charged \$869.50.
4. On June 25, 2001 the Park’s Motion For Reconsideration was granted subject to an attempt to mediate the issue on July 31, 2001 and if the parties failed to resolve the issue a rehearing was scheduled for August 15, 2001.
5. Subsequently the Complainant’s attorney moved to withdraw and thus no mediation was actually held. Complainant failed to attend the July 31, 2001 mediation session despite notice thereof.

6. On July 31, 2001 the Board granted the request for withdrawal of counsel without objection and notified the Complainant to seek other representation or to proceed pro se and to submit any additional documentation on any impermissible charged fees actually paid by her no later than August 10, 2001 in preparation for a rehearing on August 15, 2001 and that failure to provide such documentation would result in a default and the Board would dismiss this matter.
7. The Complainant did fail to provide any such requested documentation on August 10, 2001 and consequently the Board vacates that part of its' Supplemental Order requiring restitution of \$869.50 by the Park to the Complainant.
8. The Original Order enjoined the Park from enforcing or attempting to enforce Rule 1 (d) against the Complainant for various actions listed in that Order (See V. Order (a), (b) and (c)). In Stephen Hynes, as Trustee for Holiday Acres Joint Venture Trust d/b/a Holiday Acres Mobile Home Park v. Karen D. Hale & a. (___NH___, decided June 22, 2001), the Supreme Court held that the Board has no authority to issue injunctive relief. Therefore the Board, on its own motion, hereby modifies its Original Order by vacating any injunctive relief and hereby DECLARES that the Park's enforcement or attempt to enforce Rule 1(d) to assert any claim against the Complainant for attorneys fees or costs associated with any legal or administrative action between the Complainant and the Park which did not result in a judgment or decision in favor of the park including this action and the August 29, 2000 hearing in the matter Greenville Estates Co-operative v. Edgar Comeau and Rachal Comeau docket no. 00-LT-058 is unreasonable for reasons cited in the Original Order.
9. All other findings of fact, conclusions of law and orders not inconsistent with this Final Order are re-affirmed.

SO ORDERED

BOARD OF MANUFACTURED HOUSING

Date: _____

By: _____
Kenneth R. Nielsen, Esq., Chairman

Members participating in this action:

Stephen J. Baker
Rep. Robert J. Letourneau
Kenneth R. Nielsen, Esq.
Linda J. Rogers
Florence E. Quast
Sherrie Babich-Strang
Rep. Warren Henderson
Ashton E. Welch

CERTIFICATION OF SERVICE

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to Rachel Comeau, P.O. box 140, Greenville, NH 03048, Heather Schultz, Esquire, NH Legal Assistance, 1361 Elm St., suite 307, Manchester, NH 03101-1323, Sheleah M. Kaufold, Esquire, Hamblett & Kerrigan, 146 Main St., Nashua, NH 03060-2744 and Greenville Estates Tenants Coop. Inc., 41 Old Ashby Rd., Greenville, NH 03048.

Dated: _____

Anna Mae Twigg, Clerk
Board of Manufactured Housing

BOARD MEMBERS CONCURRENCE

Docket 007-00 Rachel Comeau v. Greenville Estates Cooperative, Inc.

STEPHEN J. BAKER

HON. WARREN HENDERSON

HON. ROBERT J. LETOURNEAU

KENNETH R. NIELSEN, ESQ.

ASHTON E. WELCH

FLORENCE E. QUAST

LINDA ROGERS

SHERIE BABICH-STRANG