

THE STATE OF NEW HAMPSHIRE
BOARD OF MANUFACTURED HOUSING

Billy Cate)	
Complainant)	
)	
)	
v.)	Docket No. 002-02
)	
Scotch Pine Properties)	
Guy Sherman)	
Respondent)	

Hearing held on August 5, 2002 at Concord, New Hampshire.

DECISION AND ORDER

Before the Board of Manufactured Housing (“the Board”) is a complaint by Billy Cate that Scotch Pine Properties (Guy Sherman) have violated RSA 205-A:2, III, and XI by requiring Mr. Cate to remove his home from the park at the time of sale and that the park owners did not provide a written copy of the rules and regulations. After considering all the testimony and evidence presented to the Board, the Board issues the following order.

BACKGROUND INFORMATION

Scotch Pine Properties brought an eviction action against Mr. Cate which was heard by the Concord District Court on December 13, 2001. The court found in favor of Scotch Pine Properties. The court ordered a Writ of Possession and Judgment on December 21, 2001. Mr. Cate never appealed.

Mr. Cate was under court order to give Scotch Pine Properties Lot #47. After an agreement was reached between the two parties, extra time was given to Mr. Cate to remove his mobile home from the park. Mr. Cate also expressed that he never received a copy of the park rules. He later agreed that he did receive a copy.

FINDINGS OF FACT

Scotch Pine Properties did give Mr. Cate a copy of the park rules and had successfully evicted Mr. Cate's property, mobile home, from the park via the ruling from Concord District Court.

RULINGS OF LAW

RSA 205-A:2 Prohibition. No person who owns or operates a manufactured housing park shall:

III. Require manufactured housing at the time of sale or otherwise, which is safe, sanitary and in conformance with aesthetic standards, if any, of general applicability contained in the rules, to be removed from the park. For the purposes hereof, manufactured housing shall be presumed to be safe if it is established that the manufactured housing was constructed to any nationally recognized building or construction code or standard. Failure to meet any such standard or code, in and of itself, shall raise no presumption that the manufactured housing is unsafe; nor may such failure be used as a reason for withholding approval of an on-site sale. The park owner or operator shall have the burden of showing that manufactured housing is unsafe, unsanitary or fails to meet the aesthetic standards of the park. No aesthetic standard shall be applied against manufactured housing if such standard relates to physical characteristics, such as size, original construction materials or color which cannot be changed without undue financial hardship to the tenant.

RSA 205-A:2, XI. Fail to provide each tenant who resides in his park with a written copy of the rules of said manufactured housing park. Said rules shall set forth the terms and conditions of the tenancy and shall contain the following notice at the top of the first page printed in capital typewritten letters or in 10 point bold face print.

RSA 205-A:27, II. Notwithstanding any other provision of law to the contrary, the board shall not have jurisdiction over any issues relative to rent or rental increases or jurisdiction over evictions.

CONCLUSION AND DISCUSSION

The Board finds the following:

The Board of Manufactured Housing has no jurisdiction to decide cases of evictions and that Concord District Court has ruled against Mr. Cate. Also, Mr. Cate had agreed that he did receive a copy of the rules and regulations.

Man 203.03 Motions for rehearing, reconsideration or clarification or other such post-hearing motions shall be filed within 30 days of the date of the Board's order or decision. Filing a rehearing motions shall be a prerequisite to appealing to the superior court in accordance with RSA 204-A:28, II.

SO ORDERED

BOARD OF MANUFACTURED HOUSING

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

Members participating in this action:

Stephen J. Baker
Sherrie Keith
Kenneth R. Nielsen, Esq.
Linda J. Rogers
Florence E. Quast
Judy Williams

CERTIFICATION OF SERVICE

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to Billy Cate, P. O. Box 136, Epsom, NH 03234, Scotch Pine Properties, 9 Gage St., Apt. 1, Boscawen, NH 03303 and David W. Immen, Esq., Pizzimenti & Immen, Six Chapel St., Concord, NH 03301-4303

Dated: _____

Anna Mae Twigg, Clerk
Board of Manufactured
Housing

BOARD MEMBERS CONCURRENCE

Billy Cate v. Scotch Pine Properties, (Guy Sherman), Docket No. 002-02

STEPHEN J. BAKER

SHERRIE KEITH

KENNETH R. NIELSEN, ESQ.

FLORENCE QUAST

LINDA J. ROGERS

JUDY WILLIAMS

Order Cate 002-02 Aug. 5, 2002.doc