

BEFORE THE ATTORNEY GENERAL
OF THE STATE OF WASHINGTON

MANUFACTURED HOUSING
DISPUTE RESOLUTION PROGRAM

In the Matter of:

Jan Russell,

Complainant,

v.

Cedars Mobile Manor,

Respondent

NOTICE OF VIOLATION

RCW 59.30.040

MHDRP Complaint No.: 348011

Following an investigation into the above-entitled matter pursuant to RCW 59.30.040, the Program Manager of the Manufactured Housing Dispute Resolution Program of the Office of the Attorney General of Washington has found there to be a VIOLATION of the Manufactured/Mobile Home Landlord-Tenant Act, RCW 59.20. If you disagree with this decision, your attention is directed to the section entitled APPEAL RIGHTS at the end of this Notice, which explains the procedures under RCW 59.30.040 for filing an appeal.

I. INTRODUCTION

1. In August 2009, Jan Russell (Ms. Russell) filed a complaint under RCW 59.30.040 with the Manufactured/Mobile Home Dispute Resolution Program (MHDRP) of the Office of the Attorney General of Washington against her landlord, Cedars Mobile Manor (Cedars), alleging violations of the Manufactured/Mobile Home Landlord Tenant Act (MHLTA), RCW 59.20. Cedars is a mobile home park for purposes of RCW 59.20.030(10), and is located in Gig Harbor, Washington. Ms. Russell rents mobile home space in Cedars and is therefore considered a tenant under RCW 59.20.030(18).

2. In her complaint, Ms. Russell complained that Cedars has refused to repair her carport, which has deteriorated over the last eight years. Ms. Russell claims that the wood in the carport is rotting and that the gutter needs to be repaired. Cedars is represented by attorney Marlene Kaplan. Through counsel, Cedars stated that according to the park rules and regulations, carports and shed are the responsibility of the tenant, not the landlord.

3. After attempting to resolve the disputes through the informal dispute resolution process the MHDRP conducted a formal investigation pursuant to RCW 59.30.040(3).

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4. As will be more fully set forth below, the MHDRP has concluded that Cedars is in VIOLATION of the MHLTA.

II. EXPLANATION AND INVESTIGATION

1. Staff for the MHDRP spoke to Lorna Laird, former manager of Cedars. Ms. Laird stated that Cedars constructed the carports in the park in the early 1970s. Ms. Laird stated that during her eight years of managing Cedars, she believed that the landlord was responsible for maintenance of the carports. Ms. Laird forwarded tenant requests for carport repairs to the landlord and remembers at least two instances of carports that were repaired: unit #4 and #15.

2. The rules and regulations for tenancy at Cedars indicate that “if a tenant elects to erect a carport, shed or any other structure/improvement, written permission must be obtained from the management.” The rules also state that the expense of building such structures “will be solely at the expense of the tenant and become[s] property of the tenant” and that “management shall have no claim or use of the structure.” The rules and regulations do not address repair of sheds that were erected by Cedars.

3. Ms. Russell did not build the carport, which was in place prior to her tenancy. Ms. Russell states that the present manager of the park promised on three occasions to repair the carport and even asked her to obtain three estimates. During the dispute resolution process, the park agreed to repair the carport, but upon commencing work, noticed that certain changes had been made to the carport by Ms. Russell. At that point, Cedars refused to make any further repairs to the carport.

4. Ms. Russell claims that she did not add anything to the carport and did not modify it in anyway. Ms. Russell claims that she simply removed a fallen 2x4 and part of the gutter so as to allow the carport to continue to serve its function, and only because pieces had fallen on her car and damaged it.

III. CONCLUSIONS

1. Under RCW 59.20.135, a landlord is prohibited from transferring responsibility for the maintenance or care of permanent structures within the mobile home park to the tenants of the park. Any provision within a rental agreement or other document transferring responsibility to the maintenance or care of the permanent structures within the mobile home park is void. RCW 59.20.135(2).

2. A permanent structure for purposes of RCW 59.20.135 includes carports and other permanent structure provided as amenities to park tenants, but does not include structures built or affixed by a tenant.

3. The rules and regulations at Cedars indicate that tenants are responsible to maintain the structures they erect. Here, both parties agree that Ms. Russell did not build the carport in question. Thus, the rules and regulations do not apply to this situation.

4. It is undisputed that the carport was in place when Ms. Russell moved into the park and former park management reports that Cedars built all of the carports and sheds in the early 1970s. Therefore, RCW 59.20.135 applies to this situation and Cedars cannot transfer responsibility for its maintenance to Ms. Russell. Just as the carport was in place when Ms. Russell moved into the park, the carport will stay at Cedars in the event Ms. Russell moves out.

5. While the Program acknowledges that Ms. Russell has performed some work on the carport, this work was not designed to change the nature of the carport but was only made to repair portions of the carport in response to falling debris that damaged Ms. Russell's vehicle. This work did not significantly alter the structural condition of the carport so as to render it Ms. Russell's responsibility. Cedars is responsible for care and maintenance of the carport and is in violation of RCW 59.20.135 for transferring this responsibility to Ms. Russell.

IV. CORRECTIVE ACTION REQUIRED

In order to comply with RCW 59.20.135, Cedars must, within thirty (30) days of receiving this Notice, repair the damaged portion of Ms. Russell's carport to the condition it was in at the time Ms. Russell moved into the park. A failure take the corrective action set forth above within thirty (30) days shall result in the imposition of a \$100.00 fine per day thereafter, until compliance is achieved.

V. ORDER

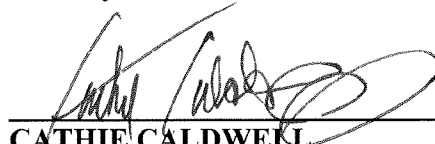
Now, based on the foregoing, it is therefore ORDERED that this NOTICE OF VIOLATION be issued and served upon all parties in this matter pursuant to RCW 59.30.040, and that CEDARS MOBILE HOME PARK comply with the corrective action required in this Notice within thirty (30) days.

Signed this 9 day of July, 2010

Manufactured Housing Dispute Resolution Program

ROBERT M. MCKENNA

Attorney General



CATHIE CALDWELL

Program Manager

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APPEAL OF THIS NOTICE

You may appeal this Notice by requesting a hearing before an administrative law judge. RCW 59.30.040. Your appeal must be submitted in writing and must be signed. The administrative law judge has authority to receive evidence and testimony in order to decide whether the evidence supports the MHDRP's decision by a preponderance of the evidence. Any appeal must be made within fifteen (15) days of receipt of this Notice and sent to the following address:

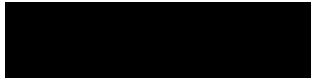
**Attorney General of Washington
Manufactured Housing Dispute Resolution Program
800 Fifth Avenue Suite 2000
Seattle, WA 98104-3188**

NOTE: If you do not submit a signed, written appeal within fifteen (15) days of receiving this Notice, this Notice will become final and binding on all parties. For more information on your rights and responsibilities with regard to this Notice, consult RCW 59.30.

A copy of this Notice has been mailed to the following parties:

Jan Russell

Complainant



Marlene Kaplan
Attorney At Law

Attorney for Respondent



The Office of the Attorney General of Washington prohibits the use of its name to promote any business practice or service.