County Civil Court: LANDLORD/TENANT - Appellee did not act in contravention of the Florida Mobile Home Act when it changed the lot rental amount and the method by which it would charge for utility services. Appellee provided written notice of the increase in lot rental amount 90 days prior to the increase, and the change in services was consistent with the representations in the amended prospectus - Judgment affirmed. *Harris v. Fairhaven Mobile Home Park, LLC*, No. 13-000067AP-88B (Fla. 6th Cir. App. Ct. September 23, 2014).

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
APPELLATE DIVISION

WILLIAM J. HARRIS,
Appellant,

vs. **Ref. No.: 13-000067AP-88B**
UCN: 522013AP000067XXXXCI

FAIRHAVEN MOBILE HOME PARK, LLC.
Appellee.
_____/

ORDER AND OPINION

On July 2, 2013, Appellee filed a complaint for eviction, alleging that Appellant failed to pay all lot rental amounts when due for the months of March through June, 2013. On October 8, 2013, the trial court found that Appellant failed to pay the total rent due, and pursuant to Section 723.061(1)(a), Fla. Stat., entered a final judgment terminating Appellant's tenancy. On appeal, Appellant contends that the trial court misinterpreted the law, and that he was not required to pay the sewer and water charges because Appellee changed the way water and sewage fees were charged from pro rata to an individual basis in contravention of the Florida Mobile Home Act.[1]

On August 24, 2012, Appellee delivered notice to Appellant that Appellee would be increasing the lot rental amount, changing the manner of billing for water and sewer services, and decreasing the base rent effective on January 1, 2013. Billing for water and sewer services had previously been done on a pro rata basis, but was being changed to an individual meter system. In order to effect these changes, Appellee filed an amended prospectus detailing the new method of billing for utilities with the Department of Business and Professional Regulation.

[1] Appellant also asserts that the trial court did not rely on competent substantial evidence, and failed to accord due process. The Court has reviewed Appellant's competent substantial evidence and due process arguments and found them to be without merit.

DBPR approved the amended prospectus on November 14, 2012, and Appellee notified Appellant of the amendments to the prospectus on December 7, 2012.

Section 723.037 of the Florida Mobile Home Act mandates that a park owner must give written notice at least 90 days prior to any increase in lot rental amount or reduction in services or utilities provided by the park owner. In addition, the manner in which utility services will be provided and charged must be consistent with the representations in the prospectus. *Tara Woods SPE, LLC v. Cashin*, 116 So. 3d 492 (Fla. 2d DCA 2013).

At trial, Appellant did not dispute that the prospectus had been amended prior to implementing the meter system, nor that Appellee provided the requisite 90 day notice of reduction in utilities provided by the park owner, but generally averred that Appellee "did not conform with the prospectus, the statute, the administrative code, and the decision of the law regarding mobile homes." Relying on *Herrick v. FL Dept. of Business Reg., 595 So. 2d 148* (Fla. App. 1 Dist. 1992), Appellant argues that changing the method of providing and charging for utilities from pro rata to an individual meter system was unlawful because the previous prospectus provided for utilities to be charged only on a pro rata basis. Appellant's reliance is misplaced. In *Herrick*, the court found that the owner of the mobile home park could not change the manner in which the utility services would be charged in a manner inconsistent with the prospectus. *Id*. at 156. In contrast to *Herrick*, in the instant case Appellee amended the prospectus to change the method of charging for utility services in accordance with §723.011, Fla. Stat., and provided notice of the prospectus amendments to Appellant prior to renewing the annual rental agreement and implementing the new meter system of charging for utility services on January 1, 2013.

Accordingly, it is

ORDERED AND ADJUDGED that the order below is affirmed.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, on this 23 day of Sept. 2014.

PAMELA A.M. CAMPBELL
Circuit Judge, Appellate Division

AMY M. WILLIAMS
Circuit Judge, Appellate Division

JACK DAY
Circuit Judge, Appellate Division

WILLIAM J. HARRIS, JR.
5660 63RD LN. N.
ST. PETERSBURG, FL 33709

DAVID D. EASTMAN
CAROL S. GRONDZIK
LUTZ, BOBO, TELFAIR, EASTMAN,
GABEL & LEE
2155 DELTA BLVD., SUITE 210B
TALLAHASSEE, FL 32303

HONORABLE WALT FULLERTON
545 1ST AVENUE NORTH
ST. PETERSBURG, FL 33701