

PRELIMINARY MATTERS AND REASONS FOR ADJOURNMENT

Dispute Codes: Landlord - OPR, OPC, OPB, MNR and FF
Tenant - CNR and FF

Introduction

This matter was originally set for hearing on September 15, 2009 on the landlord's application and was adjourned to the present session because:

1. the landlord's evidence did not reach the Residential Tenancy Branch until the day of the hearing;
2. the Dispute Resolution Officer found that tenant/applicant was entitled to time to verify her standing as executrix of the estate;
3. the subsequent purchasers and occupants of the manufactured home on the site in dispute were not in attendance and were found to be entitled to an opportunity to be heard.

At the commencement of the present session, the parties jointly requested that this matter be adjourned to a face to face hearing at the Residential Tenancy Branch Burnaby office and that a full day be scheduled.

I find that this matter is of sufficient complexity and consequence to warrant the additional time and the in person hearing and the adjournment is granted as requested.

In addition, the parties advised that a critical component of this dispute is a document, "TD Bank Assignment of Lease Consent Agreement," the authenticity of which is challenged by the landlord. Legal counsel for the owners/occupants of the mobile home requested that this document and the realtors who transmitted it be subpoenaed to permit full examination of this issue. I find that the subpoenas are warranted by the circumstances will provide them as requested.

Counsel for the landlord has questioned the standing of the executrix of the tenant's estate in this matter with respect to her former part ownership of the subject manufactured home. I find such standing must be assumed until it is examined determined at the full hearing.

By virtue of her having made application and in recognition of her status as executrix of the named tenant's estate, I have exercised my discretion under section 57(3)(c) of the *Act* and amend the landlord's application to include the name of the executrix.

In addition, as the original sitting of this hearing found that the current owners and occupants of the manufactured home are entitled to be heard in this proceeding, I have again exercised my discretion to name them as affected parties in the style of cause.

The hearing will reconvene in person at a time and place set out in the accompanying Notice of Hearing.

Copies of the requested Subpoenas accompany the manufactured home owner/occupant's legal counsel's copy of this record of preliminary matters and reasons for adjournment for service on the subject recipients.

As the present session dealt with preliminary matters and adjournment only, and as the parties have requested a face to face hearing in another city, the branch is at liberty to assign this hearing to any available Dispute Resolution Officer.