



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant did not appear at the hearing. The Landlord states that the Tenant has been deceased for a year or two and that for a period of time following, the Tenant’s mother lived in the unit and paid the pad rent. The Landlord states that nobody has been in the unit since March 2013. The Landlord states that the unit has been broken in to on a number of occasions and the neighbours are complaining. The Landlord states that the application for dispute resolution and notice of hearing (the “Application”) was served by posting the documents on the door of the unit on April 4, 2013.

The Act provides that an application for dispute resolution must be served on the responding party. The Act also defines “tenant” to include a tenant’s estate. As the Landlord has not included the Tenant’s estate representative as a respondent and as the Tenant is deceased, I find that the Landlord has not accomplished service of the Application as required under the Act. I therefore dismiss the application.

I also refer the Landlord to Section 38 of the Manufactured Home Park Tenancy Regulation that provides the following in relation to abandonment:

- (1) A landlord may consider that a tenant has abandoned personal property if
 - (a) the tenant leaves the personal property on a manufactured home site that he or she has vacated after the tenancy agreement has ended, or
 - (b) subject to subsection (2), the tenant leaves the personal property on a manufactured home site
 - (i) that, for a continuous period of one month, the tenant has not ordinarily occupied and for which he or she has not paid rent, or
 - (ii) from which the tenant has removed substantially all of his or her personal property.
- (2) The landlord is entitled to consider the circumstances described in paragraph (1) (b) as abandonment only if
 - (a) the landlord receives an express oral or written notice of the tenant's intention not to return to the manufactured home site, or
 - (b) the circumstances surrounding the giving up of the manufactured home site are such that the tenant could not reasonably be expected to return to the manufactured home site.
- (3) If personal property is abandoned as described in subsections (1) and (2), the landlord may remove the personal property from the manufactured home site, and on removal must deal with it in accordance with this Part.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 03, 2013

Residential Tenancy Branch