



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent and the filing fee

The landlord testified that on May 28, 2014, she served the tenant with the notice of hearing by registered mail. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to unpaid rent and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on October 01, 2011. A copy of the tenancy agreement was filed into evidence. The rent is \$1,500.00 per month.

The landlords named on the tenancy agreement (GK and LK) were not the applicant for dispute resolution. Council for the landlord explained that the owner of the rental property had authorized GK and LK to act on her behalf to collect rent from the tenant and the parties entered into a tenancy agreement on December 23, 2011. LK is the daughter of the owner. In November 2012, the owner of the rental property passed away.

LK was the executrix for the estate until she started proceedings to sue the estate. The applicant in this case SD is the granddaughter of the owner. She stated that she was named the executrix for the estate shortly after LK sued the estate. This matter is currently under dispute in another court.

The applicant SD stated that the tenant had provided post dated cheques made out in trust to the law firm that SD has hired to represent her. The cheques for the months of November and December 2013 and January 2014 were not cashed due to an oversight on the part of the law firm and/or SD.

SD still has these cheques in her possession but stated that she is unable to cash the cheques due to insufficient funds. SD is applying for a monetary order in the amount of \$4,500.00.

Analysis

The applicant SD is not the landlord as per the tenancy agreement. The owner of the rental unit is now deceased. The matter is currently in dispute as the landlord LK, as named on the tenancy agreement has sued the estate of the owner.

Section 58.2.c of *Residential Tenancy Act* addresses the jurisdiction of the *Residential Tenancy Act*. This section states that if a dispute is linked substantially to a Supreme Court action, then the arbitrator may decline jurisdiction

Based on the sworn testimony of SD and the documentary evidence filed into evidence, I find that this dispute is linked substantially to a matter that is before the Supreme Court of BC. Therefore I find that I do not have jurisdiction in this matter until the estate makes application to recover the unpaid rent.

Conclusion

The application is dismissed.

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: July 09, 2014

Residential Tenancy Branch

