



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes      MNDC FF

### Introduction

This hearing was convened to deal with an Application for Dispute Resolution filed on March 27, 2014, by the Tenants to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the cost of the filing fee from the Landlords for this application.

The parties appeared at the scheduled teleconference hearing, gave affirmed testimony, and confirmed receipt of evidence served by the other. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

### Issue(s) to be Decided

Are E. M. And J.E. M. properly named as respondents to this dispute?

### Background and Evidence

The Agent for the Landlord, hereinafter referred to as Agent, testified that she was not disputing the Tenants' claim for monetary compensation. She submitted that J.E.M. signed a contract, as power of attorney for E.M., to hire their company as property managers and to rent out E.M.'s house. The Agent stated that they are a large property manager company who took action as Landlord, Agent for Owner, with these Tenants, as supported by the tenancy agreement provided in evidence.

Legal counsel for J.M., hereinafter referred to as Counsel, argued that these matters are significantly linked to civil contract issues between the Agent and his client(s), E.M. and J.E.M. and therefore, these matters do not fall under the jurisdiction of the *Residential Tenancy Act*.

Counsel submitted that in the absence of evidence of a contract authorizing the Agent to act on his clients' behalf and enter into a tenancy agreement with the Applicants, he argued that E.M. and J.E.M. should not be named as participants to this dispute. He

submitted that E.M. suffered a stroke on December 31, 2013, went into a coma, and passed away on January 10, 2014; which creates additional civil issues surrounding the power of attorney assigned to J.E.M. Counsel suggested that E.M. and J.E.M.'s names be removed as respondents from this dispute.

The Tenant disputed Counsel's request to remove his clients' as named respondents to this dispute for the following reasons:

- They were told by the Agent that after completing their applications for tenancy their documentation would be presented to the owners for their approval;
- Final approval was received, they took an earlier possession date as per the owners' request, and they entered into the written tenancy agreement and paid the security deposit and first month's rent;
- She was told by the Agent that the owners had the final word and must approve everything;
- The tenancy agreement was entered into, the security deposit was paid, and the first half month's rent was paid prior to E. M. Suffering a stroke;
- They found out that the tenancy agreement had been cancelled by the owners on January 6<sup>th</sup>, 2014, and after their attempts to save the tenancy they were notified on January 10, 2014, that the owner's had contacted the hydro company and refused transfer of service into the Tenants' names.

After a brief discussion I informed the parties that I would take their arguments into consideration and I requested additional written submissions as noted in the oral orders listed below.

- 1) The Agent was ordered to submit copies of their management agreement and any documentation pertaining to this tenancy to J.M., the Tenant, and the *Residential Tenancy Branch*, no later than **July 26, 2014**, (10 Days from this hearing).
- 2) Written responses or submissions relating to the foregoing were ordered to be provided to all parties and the *Residential Tenancy Branch* no later than **August 5, 2014**.

I advised the parties that upon review of the additional submissions I would issue a written decision advising how the respondents will be named in this dispute. It was mutually agreed by all parties that if I decided that E.M. and J.E. M. were not to be named as respondents, I would issue a final decision to these matters. If I found that E.M. and or J.E.M. were to be named as respondents, in any capacity, then these matters will be reconvened at a future date to hear final submissions.

### Analysis

Section 76(1)(b) of the Act stipulates that on the request of a party or on the director's own initiative, the director may issue a summons requiring a person to produce before the director documents or any other thing relating to the subject matter of the dispute.

Section 62(3) of the Act provides that the director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.

As noted above, the parties were issued oral orders to provide additional evidence and submissions.

In addition to the above mentioned oral orders, I hereby order J.E.M. to provide, to all parties and the *Residential Tenancy Branch*, copies of Property Title Change documents, pertaining to the subject property, which may have or were filed during the calendar years 2013 and 2014. The Title Change document(s) must clearly display the previous owner's name(s) and the name(s) the title is transferring into and must be served upon all other parties and the *Residential Tenancy Branch* **as soon as possible** but no later than **August 5, 2014**.

### Conclusion

J.E.M. is hereby ordered to provide to all parties and the *Residential Tenancy Branch* copies of any Property Title Change documents, pertaining to the subject property, as described above, **as soon as possible** but no later than **August 5, 2014**.

The Agent is hereby ordered to submit copies of their management agreement and any documentation pertaining to this tenancy to J.M., the Tenant, and the *Residential Tenancy Branch* no later than **July 26, 2014**.

All parties are hereby ordered to submit their written submission relating to the foregoing, no later than **August 5, 2014**.

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 16, 2014

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Residential Tenancy Branch

