



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LOMBARDY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes opr, mnrr, ff

This is an unfortunate situation in which a tenant in a manufactured home park tenancy has died. The landlord seeks an order of possession and a monetary order for unpaid rent.

The man who called in on behalf of the estate was informally representing the estate. He is not the executor of the estate, however, and has no written authorization from the executor to represent the estate. In fact, no grant of probate has yet been issued by the court, which means that legally there is not yet a formal estate representative.

From the perspective of this claim, in terms of service upon the respondent, the Residential Tenancy Act specifically states:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

As it is clear there not yet a formal representative of the estate, it follows that the landlord was premature in filing this claim, as there is no one to whom the landlord was able to lawfully and effectively serve the notice of this hearing. The registered mail sent by the landlord was not effective, for example, as the deceased tenant no longer resides at her former address.

Conclusion:

Under the circumstances, the landlord's application is dismissed, with leave to re-apply once an authorized representative of the estate has been appointed.

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

Dated: December 16, 2014

Residential Tenancy Branch

