



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent; and
- authorization to recover its filing fee for this application from the tenant.

The tenant's representative did not attend this hearing, although I waited until 1350 in order to enable the tenant's representative to connect with this teleconference hearing scheduled for 1330. The landlord's agent attended the hearing.

Preliminary Issue – Service of Estate

The agent testified that the tenant died at some point in April 2015. The agent testified that the tenant received some sort of social assistance from the Province. The agent testified that the tenant's rent was paid directly from the Province. The agent testified that he was informed by someone acting for the landlord that he could serve the Public Guardian and Trustee (the PGT). The agent named the PGT Estate Liaison Department as party to this application as well as the "Executor of the Deceased".

The landlord sent the dispute resolution package in respect of this application to the PGT. The agent testified that the landlord did not receive any response from the PGT. No one attended from the PGT as a representative of the tenant's estate.

Residential Tenancy Policy Guideline, "12. Service Provisions" provides assistance to applicants where the respondent has died:

Where the applicant names the decedent (i.e., where the respondent has died), the application must be served on the personal representative of the decedent, and at the hearing the application may be amended to properly name the estate.

I amended the landlord's application to include the naming convention as directed by Policy Guideline 12.

Rule 3.5 of the *Residential Tenancy Branch Rules of Procedure* sets out that the applicant in a hearing must be prepared to demonstrate to the satisfaction of the Arbitrator that each respondent was served with the hearing package and all evidence, as required by the Act.

I informed the agent at the hearing that the tenancy agreement was between the tenant and the landlord and that the Province itself was not responsible for rent owing under that agreement merely by directing a portion of the tenant's benefits to the landlord. I informed the agent that in order to proceed with the application I had to be satisfied that the personal representative of the estate had been given notice of this application.

The landlord did not provide any document that indicated that the PGT had been appointed as the tenant's personal representative. On this basis, I am not able to accept that there has been effective service of the tenant's estate for the purposes of section 89 of the Act. Accordingly, the landlord's application is dismissed with leave to reapply.

Conclusion

The landlord's application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable time limit.

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

Dated: August 12, 2015

Residential Tenancy Branch

