



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capital Management & View Towers
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes AAT, OPT, RPP, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution seeking to return of a security deposit; return of personal property; access to a rental unit; and an order of possession for the applicant.

The hearing was conducted via teleconference and was attended two of the named applicants and three agents for the respondents.

The applicants clarified during the hearing that they do not seek possession of the rental unit rather just the personal possessions and return of the security deposit.

The parties agreed the tenant of the subject rental unit passed away on February 9, 2016. The applicants submitted they represent the family of the deceased tenant. The applicants confirmed there was no will or power of attorney authorizing any member of the family to administer the estate.

The applicants also confirmed that they have not sought a court order from any authority granting any member of the family authority to act on behalf of the estate. They submit that all members of the family agree that the applicant SP should act in that capacity.

Section 1 of the *Residential Tenancy Act (Act)* defines a tenant includes the estate of a deceased tenant. As such, if a party has authority under law to administrate an estate they would have authority under the *Act* to pursue a claim as a tenant against the landlord of the deceased's rental unit.

In British Columbia, the determination of who has authority to administrate an estate falls within the *Wills, Estates, and Succession Act* and must be determined through the Supreme Court of British Columbia. As the applicants do not have any order from Supreme Court granting authority to act on behalf of the estate, I find the applicants' Application for Dispute Resolution is premature.

Issue(s) to be Decided

The issues to be decided are whether the applicants are entitled to an order of allowing the applicants to retrieve the personal possession of the deceased tenant; for all or part of the security deposit and to recover the filing fee from the respondents for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

Conclusion

Based on the above, I dismiss this Application for Dispute Resolution with leave to reapply pending the determination of who has authority to act on behalf of the estate.

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: April 25, 2016

Residential Tenancy Branch