



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PUPPY HOLDINGS INC
PUBLIC GUARDIAN AND TRUSTEE OF BC EXECUTOR OF THE ESTATE OF PAUL
HOBIZAL, DECEASED
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MNDC, MNSD, MNR, MND, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent, loss of income, cost of cleaning, garbage removal and for the recovery of the filing fee. The landlord also applied to retain the security deposit.

The tenant passed away on July 17, 2014 and the estate of the tenant is being administered by the Public Guardian and Trustee of British Columbia (PGTBC).

The landlord testified that he served the agent for the tenant's estate (PGTBC) with the notice of hearing by registered mail. The landlord filed a copy of the tracking slip. Upon receipt of the notice of hearing the PGTBC informed the landlord that they would not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

On September 11, 2014, the landlord filed his claim against the tenant's estate at the office of the PGTBC. In a letter dated March 20, 2015, the PGTBC informed the landlord that his claim was recorded and would be processed after a number of administrative steps were taken. The letter also notified the landlord that the administration of the estate was a lengthy process and that it was not known whether at the end of the process, there would be funds available to cover the landlord's claim.

The landlord made this application on June 18, 2016. The PGTBC responded with evidence of their own. Included in this evidence is a letter dated May 31, 2016. The letter informs the landlord that the administration of the estate was complete and that the estate is insolvent. The letter goes on to explain that there are no funds available to cover the landlord's claim of \$2,146.75.

The PGTBC has also included a statement stating that while they acknowledge the landlord's monetary claim and do not dispute the quantum of the claim, the estate is insolvent and therefore there are no available funds to satisfy the landlord's claim. The PGTBC has also provided a financial statement regarding the disbursements of the proceeds of the tenant's estate. The financial statement indicates that the current balance in the estate account is negative.

The PGTBC states in their written submission that issues regarding the administration of an estate are within the jurisdiction of the Supreme Court of British Columbia. The landlord filed a copy of a document from the Supreme Court which grants the PGTBC authorization to administer the estate of the deceased tenant.

Issues to be decided

Does the *Residential Tenancy Act* apply to the parties and do I have jurisdiction to resolve this dispute? If so, is the landlord entitled to a monetary order for unpaid rent, loss of income, cost of cleaning, garbage removal and for the recovery of the filing fee?

Background and Evidence

The tenancy started in 1997 and ended on July 17, 2014 when the tenant passed away. The landlord received a letter from the PGTBC, on August 26, 2014. The letter was dated August 15, 2014 and it informed the landlord that the PGTBC was administering the estate of the tenant. It also notified the landlord of what documents needed to be submitted if he intended to make a claim against the estate of the tenant.

On September 11, 2014, the landlord replied to the PGTBC and informed them of his monetary claim in the amount of \$2,146.72.

Analysis

Section 27 of *Residential Tenancy Policy Guideline* 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 documentary evidence filed by both parties, I find that the PGTBC has acknowledged the landlord's claim as valid and have determined that the estate of the tenant is insolvent.

Section 170 of the *Wills, Estates and Succession Act* provides a scheme for the priority of payment of creditors in an insolvent estate. Issues regarding the administration of the estate of the tenant falls within the jurisdiction of the Supreme Court of British Columbia and accordingly, I do not have jurisdiction in this matter.

Conclusion

I find that the *Residential Tenancy Act* does not apply to this dispute and I decline jurisdiction.

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: December 14, 2016

Residential Tenancy Branch