



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the applicant and her advocate.

The applicant testified the respondent was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on December 5 or 6, 2016. When asked to be more specific she stated December 6, 2016.

Based on the testimony of the applicant, I find that the respondent has been sufficiently served with the documents pursuant to the *Act*.

Residential Tenancy Policy Guideline 43 states:

In order to enforce Residential Tenancy Branch orders, the applicant must use the correct name of a respondent who operates as a business.

If the party is a limited liability company or a registered corporation, then the full legal name of the company should be used on the application, and include the designations such as Incorporated, Inc., Limited, Ltd., Corporation or Corp. (and/or the French language equivalents).

If the party is doing business as a particular named entity, the application should read as follows: John Smith dba (or doing business as) Garden Apartments, or John Smith carrying on business as Garden Apartments.

An application that names a partnership will be enforceable against the partnership. If an applicant is seeking an order against the individual partners on the basis of the *Partnership Act*, the individual partners should be named and each served with a copy of the application.

It is up to the applicant to ensure that a party is properly named to ensure an enforceable order. Where the business is not properly named, for example

Garden Apartments (only), the director may dismiss the application with leave to reapply unless the other party is present and consents to an amendment, or the director may issue the order using the name set out in the application.

At the outset of the hearing, I asked the applicant to clarify who the respondent was and whether or not her actual landlord was the community services society named in at least 6 pages of her evidence. The applicant confirmed that the society was her landlord but that her dispute is with the respondent as he is the one not returning her security deposit. The applicant submitted the respondent was the site manager.

I note however, there is nothing in the applicant's documentary submissions confirming the respondent is the site manager, while there is a copy of a letter dated December 30, 2015 written by another person that lists their title as site manager. As a result, and in the absence of the respondent to provide any clarity or an agreement to allow an amendment to the Application to name the correct entity, I am not satisfied the named respondent should be named in this Application.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount of the security deposit, pursuant to Sections 38, 67, and 72 of the *Act*.

Conclusion

Based on the above, I dismiss this Application for Dispute Resolution and grant the tenant leave submit a new Application for Dispute Resolution seeking the return of her security deposit from her correctly named landlord.

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: June 05, 2017

Residential Tenancy Branch