



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF, O

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Applicant for the return of the Tenant’s security deposit and for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”). The Applicant also applied to recover the filing fee from the Respondent Landlord and for “Other” issues.

The Applicant appeared for the hearing with an assistant who both provided affirmed testimony. The hearing was also attended by an agent of the Landlord named on the Application and a witness who was a property manager of the Landlord. However, only the Landlord’s agent provided affirmed testimony.

The hearing process was explained and no questions on how the proceedings would be conducted were asked.

Preliminary Issues

The Applicant had brought this Application against the Landlord claiming that she was the administrator of the Tenant’s estate who had passed away in July 2015. The Applicant testified that she was the wife of the Tenant even though they had separated and that she was with the Tenant throughout this tenancy.

The Landlord who had been served with the Application asserted in documentary evidence that they had no knowledge of who the Applicant was and whether she was indeed the administrator of the Tenant’s estate. The Landlord’s agent also pointed me to the tenancy agreement which only showed the deceased Tenant’s name as the sole person to whom the unit was rented to.

The Landlord's agent also pointed to the rental application form the Tenant had completed prior to the tenancy starting, which does not detail the Applicant's name; in fact the rental application shows the Tenant was separated from his spouse and that the Tenant had listed his daughter as the Tenant's contact details.

The Landlord's agent submitted into documentary evidence a document which the Tenant's daughter had sign giving written consent to the Landlord to keep the Tenant's security deposit. The Landlord's agent stated that they had nothing to do with the Applicant during this tenancy.

The Landlord's agent then pointed to a letter which was sent to the Tenant after they were served with the Application asking for evidence or proof that the Applicant was the administrator of the Tenant's estate. However, no such evidence was furnished either to the Landlord or the Residential Tenancy Branch prior to this hearing.

The Tenant acknowledged receipt of the Landlord's letter asking for verification of the Tenant's estate but the Tenant stated that she was unable to get such documentation as she could not afford a lawyer and had been dealing with the government. The Tenant testified that she was informed by the government that because she was the wife of the Tenant, she would be regarded and considered the executor of the Tenant's estate.

Preliminary Findings

When a party makes an Application, they must be able to prove that they are a party to that dispute, especially if this comes into question. The Act only has jurisdiction in matters between a landlord and tenant. The Act defines a Tenant as:

"tenant" includes

- (a) the estate of a deceased tenant, and
- (b) when the context requires, a former or prospective tenant.

[Reproduced as written]

In this case, I was not satisfied by the Applicant's oral evidence alone that she is the executor of the Tenant's estate. The Applicant had failed to provide sufficient verification through documentation to prove that she had sufficient authority in this dispute to bring a claim against the Landlord, especially when she had been requested to provide this.

In the absence of such evidence, I am unable to hear the Application before me. Therefore, I dismiss the Application but provide leave to re-apply if the Applicant is able to obtain sufficient evidence to show that she is a Tenant to this dispute as contemplated by the Act.

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: September 11, 2017

Residential Tenancy Branch