



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MND FF

Introduction

This hearing was convened in response to an application from the landlord pursuant to the *Residential Tenancy Act* (“*Act*”) for:

- a monetary order pursuant to section 67 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the landlord appeared at the hearing. The landlord was given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

Following opening remarks, the landlord explained that the tenant would not be attending the hearing because he had passed away in February 2018.

The landlord said that she received an email from the tenant’s brother in February 2018 informing her that the tenant had passed away. Immediately upon receipt of the brother’s email, the landlord sent a copy of her application for dispute to the brother.

Residential Tenancy Policy Guideline #27-10 states:

Where a party to an application for dispute resolution is deceased, the personal representative of the deceased’s estate should be named. If the deceased is a respondent to an application, the personal representative should be named and served. If the applicant does not know the name of the deceased’s personal representative at the time of filing an application for dispute resolution, the deceased’s name can be filled in on the application (e.g. John Doe, deceased). At the hearing, the arbitrator may amend the application to reflect the proper name of the estate.

The personal representative may be the person named as executor in the deceased's will or the person who has been approved by the court to administer the estate by way of an estate grant.

As the applicant landlord was unable to confirm whether the tenant's brother was the personal representative of the estate, I declined to allow service of the documents. Should the landlord wish to proceed with this application they will need to serve the hearing documents to the persons named in Policy Guideline #27-10.

The landlord must bear the cost of her own filing fee.

Conclusion

The landlord's application is dismissed with leave to reapply.

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 5, 2018

Residential Tenancy Branch