



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX CHECK REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, OPR, MNR, FF

Introduction

The landlord applies for an order of possession pursuant to a one month Notice to End Tenancy given for an unapproved assignment of the tenancy and pursuant to a ten day Notice to End Tenancy for unpaid rent, as well as for a monetary order for unpaid rent.

The tenant passed away in late 2017. No one appeared on behalf of his estate or on behalf of the current occupant of the manufactured home on the site.

Ms. I. for the landlord did not know whether a personal representative for the late Mr. B. had been appointed. This application and notice of hearing had been sent by registered mail to the estate of the late respondent at the manufactured home site. It was apparently delivered on December 12. It cannot be determined who signed for the mail.

As far as Ms. I. knows, the late Mr. B.'s daughter "took over the estate" and sold the manufactured home to a Mr. P. who has been living there since at least January 2018. Mr. P. has been paying the rent or at least occupation rent until this fall when payments stopped.

It was determined at hearing that this application could not proceed because the tenant has not been served in accordance with the *Manufactured Home Park Tenancy Act* (the "Act").

Section 82 of the *Act* provides:

82 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 6, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 64 (1) [*director's orders: delivery and service of documents*].

(2) An application by a landlord under section 48 [*order of possession for the landlord*], 49 [*application for order ending tenancy early*] or 49.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) as ordered by the director under section 64 (1) [*director's orders: delivery and service of documents*].

Obviously a copy of the application cannot be left with the tenant as he has passed on. Sending a copy to the present occupant at the site address or posting it on the door would be ineffective because that person does not “reside” with the tenant and the tenant no longer resides at this address.

In result, the application is dismissed with leave to re-apply. Ms. I. was directed to resources available to determine whether the late tenant has an official personal representative and for information about orders for substituted service.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: January 03, 2019

Residential Tenancy Branch