



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SPRING CITY RETIREMENT SERVICE CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of an Application for Dispute Resolution, made by the deceased Tenant's daughter, A.B., on October 4, 2018 (the "Application"). The following relief was sought pursuant to the *Residential Tenancy Act*:

- an order that the Landlord return all or part of the security deposit and/or pet damage deposit; and
- an order granting recovery of the filing fee.

A.B. and J.M. attended the hearing. The Landlord was represented at the hearing by C.P., an agent. During the hearing, A.B. advised that the Tenant died on July 22, 2018, before the Application was made. However, A.B. and J.M. confirmed that neither of them are representatives of the estate of the deceased.

Policy Guideline #43 confirms that when a party to an application is deceased, the personal representative of the deceased person's estate must be named. The language is mandatory. It states:

Where a party to an Application for Dispute Resolution is deceased, the personal representative of the deceased's estate must be named. If the deceased is a respondent to an application, the personal representative must 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.

The proper manner of naming the estate is as follows: John Smith, Personal Representative of the Estate of Mary Jones, Deceased.

[Reproduced as written.]

I find that the personal representative of the estate has not been properly named. Further, I accept the advice of A.B. and J.M., who confirmed that neither of them have any legal authority to act on behalf of the estate of the deceased. Therefore, I find that the Application is dismissed, with leave to reapply. This is not an extension of any applicable statutory deadline.

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: January 31, 2019

Residential Tenancy Branch