



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes MNR MNSD FF

Introduction

This hearing was convened in response to the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for Orders as follows:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 65.

The hearing was conducted by conference call. The landlord's representative attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Preliminary Issue - Service of Landlord's Application

This tenancy began on July 1, 2017. The original fixed term lease expired on June 30, 2018 after which the tenancy continued on a month to month basis. The tenant passed away sometime in July 2018. The landlord is seeking a monetary order for unpaid rent for August 2018. A move-out inspection was conducted with the tenant's brother R.B. on August 21, 2018.

The landlord testified that on October 10, 2018 she served the tenant's brother with the Application for Dispute Resolution and Notice of Hearing by registered mail to an address he provided.

Residential Tenancy Branch, Policy Guideline #12 "Service Provisions", provided guidance on the service of documents on a deceased person as follows:

10. SERVICE OF DOCUMENTS ON A DECEASED PERSON

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.

The landlord's application named the deceased tenant as the respondent. The landlord did not provide any evidence to support that the tenant's brother was the person named as the executor in the deceased's will or that he has been approved by the court to administer the estate.

I find that the landlord has provided insufficient evidence that the application was served to the legally appointed personal representative of the deceased tenant.

The landlord's application is dismissed with leave to reapply. As the landlord was not successful in this application, the landlord is not entitled to recover the 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 *Manufactured Home Park Tenancy Act*.

Dated: February 05, 2019

Residential Tenancy Branch