



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACE REALTY CORP and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) for monetary compensation, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

Both Tenants were present for the hearing while no one called in for the Respondent. The Tenants were affirmed to be truthful in their testimony and stated that they served the Respondent in person with the Notice of Dispute Resolution Proceeding package and a copy of their evidence. However, they stated that the Respondent advised them that as a property management company they were no longer representing the owners of the rental unit and that the owners should therefore be named instead.

The Tenants submitted an email from the Respondent dated September 27, 2019 in which they provide the name and address of the owners of the rental unit. The Tenants also submitted a copy of the tenancy agreement which also names the owners.

The Tenants testified that following receipt of the owners’ address, they sent the hearing documents and a copy of their evidence to the owners by registered mail. They submitted registered mail information showing that the package was delivered and signed for on October 25, 2019.

However, in the absence of the owners at the hearing and as the owners are not named on the Application for Dispute Resolution, I am not satisfied that the owners were sufficiently notified of a claim against them. Based on the information submitted, I am also not satisfied that the Respondent named in this matter is the party who should be named.

Although rule 7.13 of the *Residential Tenancy Branch Rules of Procedure* allows another person to be added as a party to a claim, in the absence of the owners to confirm that they are a party to this dispute, I decline to amend the Application for Dispute Resolution to change the name of the Respondent.

Instead, I find that the incorrect party was named, and despite being served, the owners were not named on the Application for Dispute Resolution and therefore may not have been aware of a dispute against them.

Accordingly, I find that a decision on this matter cannot be made until the correct party is named and served in accordance with the *Act*. Although adjournment was discussed with the Tenants, I find that it would be unfair to grant an adjournment with the incorrect Respondent named. Instead, the Application for Dispute Resolution must correctly name the parties before the hearing may continue. I dismiss the Tenants' application, with leave to reapply.

Conclusion

The incorrect party was named on the Application for Dispute Resolution and therefore the 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: December 09, 2019

Residential Tenancy Branch