Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ALS Property Managment Ltd.
and [tenant name suppressed to protect privacy]

DECISION

<u>Dispute Codes</u>   **MNDCT, FFT, MNSD**

<u>Introduction</u>
This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "*Act*") for:

- A monetary order for damages or compensation pursuant to section 67;
- Authorization to recover the filing fee for this application from the landlord pursuant to section 72; and
- An order for the return of a security deposit or pet damage deposit pursuant to section 38.

The tenants attended the hearing and were represented by JN, the son of the tenant named on the tenancy agreement ("tenant"). The landlord did not attend the hearing, although I left the teleconference hearing connection open until 2:00 p.m. in order to enable the landlord to call into this teleconference hearing scheduled for 1:30 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified the Notice of Dispute Resolution Proceedings was served by registered mail to the landlord on January 29, 2020. The tracking number for the mailing was provided as evidence. The tenant testified the package was sent to the landlord at the landlord's place of business.

<u>Preliminary Issue – incorrect party named as respondent</u>
The tenant testified that there was a contractual relationship between the tenant and the party named on the Application for Dispute Resolution, a company. The tenant repeatedly asked me to look at the tenancy agreement as proof of that relationship. The named parties on the tenancy agreement, as shown on the tenancy agreement provided as evidence by the tenant for this hearing were HL as tenant and an individual, WKL as landlord (names withheld for privacy). There is no reference to the company

named as a landlord in these proceedings on the tenancy agreement, however the tenant submits that the address for the company named as landlord in these proceedings on the tenancy agreement is the same address of the company.

Residential Tenancy Branch Policy Guideline PG-43 [naming parties] provides guidance to landlords and tenants in naming parties to a dispute resolution proceeding.

A. LEGISLATIVE FRAMEWORK

The *Residential Tenancy Act* require Applications for Dispute Resolution to include the full particulars of the dispute that is subject to the dispute resolution proceedings. Parties who are named as applicant(s) and respondent(s) on an Application for Dispute Resolution must be correctly named. If any party is not correctly named, the director's delegate ("the director") may dismiss the matter with or without leave to reapply. Any orders issued through the dispute resolution process against an incorrectly named party may not be enforceable.

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F. UNCERTAINTY ABOUT HOW TO CORRECTLY NAME PARTIES

If an applicant is not certain how to correctly name the respondent(s), they may wish to obtain independent legal advice.

The tenant named a party not reflected on the tenancy agreement as the landlord in this Application for Dispute Resolution. The individual, as shown on the tenancy agreement, was not named as the landlord. No documentary evidence was provided to corroborate the tenant's assertion that the company named as the landlord is the correct party or is the proper respondent. Based on the evidence before me, I am not satisfied the correct party was named as the respondent and I dismiss this Application for Dispute Resolution with leave to reapply.

Conclusion

The tenant's application is dismissed with leave to reapply. I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

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 16, 2020

Residential Tenancy Branch