



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: RPP

Introduction

A third party, purportedly acting on behalf of the deceased tenant's estate, sought an order under section 65 of the *Residential Tenancy Act* ("Act").

The third party filed an application for dispute resolution on September 6, 2020 and a hearing was held on October 26, 2020. The third party and the landlord's husband (the landlord was nearby, but not on the call with the husband) attended the hearing.

Preliminary Issue: Authority of Third Party to Act on Behalf of Tenant's Estate

In this matter, the preliminary issue was whether the third party has the legal authority to act on behalf of the deceased tenant's estate. And, therefore, whether they had the authority to act in respect of any matters arising under the Act and in relation to the deceased's tenancy.

In support of her "authority" to act, the third party submitted two documents, the first of which is a photograph of a handwritten letter, which reads as follows:

Authority Letter

I [third party] am acting on behalf
of [tenant] as the "tenant" [sic] is deceased
& thus the whole cause of this dispute

[signed by third party]

The second document is a letter purportedly authored by the deceased tenant's daughter, in which the signatory daughter designates and authorizes the third party to "remove effects from his rental property." It is notable that there is no address or contact information for the signatory. Nor is the letter notarized.

Neither of these documents, nor any of the other documentary evidence submitted by the third party, establishes that the third party has the legal authority to act on behalf of the tenant's estate. The deceased tenant, it should be noted, died intestate.

Section 74(4) of the Act states that a party to a dispute resolution proceeding "may be represented by an agent or a lawyer." Further, *Residential Tenancy Policy Guideline 26 ("Advocates, Agents and Assistants")* states the following:

Agents may be required to provide written verification that they have been appointed by the landlord or tenant to act or appear on their behalf at the dispute resolution proceeding and that they have full authority to settle a claim.

Based on the handwritten note and the letter for which the content and the identity of the author cannot be established, I am not satisfied on a balance of probabilities that the third party has provided satisfactory verification that she has the authority to act on behalf of the tenant's estate. Accordingly, I dismiss her application with leave to reapply.

Having heard submissions from the third party and having decided that they did not have the authority to act on behalf of the estate, I did not hear further from the landlord.

As explained to the third party during the hearing, where a deceased is intestate, an individual may apply to the BC Supreme Court for a grant of administration in order to handle and have authority over the estate, under the *Wills, Estates and Succession Act*.

Conclusion

The application is dismissed, with leave to reapply.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: October 30, 2020

Residential Tenancy Branch