



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDCT, MNSD, MNETC, RPP

Introduction

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

- A monetary award for damages and loss pursuant to section 67;
- A return of the security deposit for this tenancy pursuant to section 38; and
- A return of personal possessions pursuant to section 65.

The named landlord attended the hearing with another individual who identified themselves as a co-landlord for the property. An individual purporting to be the Administrator of the Estate of the tenant attended. All parties in attendance were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Preliminary Issue – Authority of Representative to Act on Behalf of the Tenant's Estate

The named applicant was a tenant of the rental unit who passed away on June 17, 2020. The present application is brought in the deceased tenant's name by WAH who purports to be the administrator of the estate of the tenant. WAH has submitted a Death

Certificate for the tenant and a filed Authorization to Obtain Estate Information dated February 11, 2021 as evidence of their authority to act.

The Authorization to Obtain Estate Information clearly states on its face that:

THIS AUTHORIZATION TO OBTAIN ESTATE INFORMATION DOES NOT
AUTHORIZE THE APPLICANT(S) TO TAKE DELIVERY OF ANY OF THE
ASSETS OF THE DECEASED.

WAH testified that they have subsequently been granted administration of the estate of the tenant but have declined to submit Letters of Administration into evidence or to provide the landlord with any evidence of their authority.

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 documentary evidence submitted by WAH it is evident that they have been granted limited authorization to obtain estate information but that authorization does not allow them to take delivery of any of the assets of the deceased. Basically, they have no authority to seek any of the relief sought in the present application: to be issued a monetary award, the security deposit for this tenancy or any of the personal possessions left in the rental unit.

I find the testimony of WAH that they have been issued Letters of Administration allowing them to take delivery of the assets of the estate to be insufficient on a balance of probabilities to establish that they have full authority to act on behalf of the tenant's estate. If WAH has been issued a grant of administration through the appropriate courts allowing them to handle and have authority over the estate, it would be reasonably expected that they would provide documentary evidence of their authority to act. Based on the evidence I am not satisfied that WAH has the authority to seek any of the relief in the present application and consequently dismiss the application in its entirety with leave to reapply.

Conclusion

The application is dismissed in its entirety 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: July 6, 2021

Residential Tenancy Branch