



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANGARA GARDENS HOLDINGS
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S MNRL-S MNDCL-S FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (Act) for a monetary order for damage to the unit, site or property, for unpaid rent or utilities, for compensation for damage or loss under the Act, regulation or tenancy agreement, to offset any amount owed with the tenants' security deposit and/or pet damage deposit, and to recover the cost of the filing fee.

An agent, JK, and an assistant officer manager, KY (manager) for the landlord attended the teleconference hearing. The tenants did not attend the hearing as the agent indicated that both have passed away. The agent and manager were affirmed and testified that the Public Guardian and Trustee of British Columbia (PGTBC) was administering the estate of tenant, C-FYLY. The agent and manager were not aware of who was administering the estate of tenant W-SY. The landlord also submitted a letter from KH, the Estate Administrator, PGTBC (administrator).

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

The agent and manager were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The agent and manager were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the agent and manager were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the

Act. The agent and the manager did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the agent and manager confirmed their email address at the outset of the hearing and were advised that the decision would be emailed to them. The tenants will be emailed a copy of the decision as noted later in this decision.

Analysis

As the landlord did not amend the application to include the name of the PGTBC for tenant C-FYLY, and the estate of tenant W-SY, the agent and manager were advised that I was not satisfied on service of the application.

Both parties have the right to a fair hearing. The PGTBC and the Estate of tenant W-SY would not be aware of the hearing without having received the Notice of a Dispute Resolution Hearing and Application. Therefore, **I dismiss** the landlord's application **with leave to reapply** due to a service issue. I note this decision does not extend any applicable time limits under the Act. RTB Policy Guideline 43, Naming Parties (PG 43) states as follows:

D. NAMING AN ESTATE OF A PERSON WHO HAS DIED

Where a party to an Application for Dispute Resolution is deceased, the personal representative of the deceased's estate must be named. If the deceased is a respondent to an application, the personal representative must 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 proper manner of naming the estate is as follows: John Smith, Personal Representative of the Estate of Mary Jones, Deceased.

The filing fee is not granted due to a service issue.

Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue.

The filing fee is not granted as noted above.

This decision does not extend any applicable time limits under the Act.

The landlord is reminded to review RTB PG 43 before reapplying.

The decision will be emailed to the landlord and to the Estate Administrator, KH of the PGTBC.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 12, 2021

Residential Tenancy Branch