



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, OPR, MNR

Dismissal of Landlord's Application

The Landlord applies for the following relief under the *Manufactured Home Park Tenancy Act* (the "Act"):

- An order for possession under s. 48 after issuing a 10-Day Notice to End Tenancy signed March 9, 2022;
- A monetary order under s. 60 for unpaid rent; and
- Return of its filing fee pursuant to s. 62.

S.R. appeared as agent for the Landlord. The Tenant did not appear, nor did someone appear on their behalf.

The Landlord's agent affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The Landlord's agent confirmed that he was not recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

I was advised by the Landlord's agent that, to the best of his knowledge, the Tenant, G.P., passed away in October 2021. The Respondent named in the application is co-executor of the Tenant's will. Policy Guideline 43 provides guidance with respect to naming an estate of a deceased party. Though the Landlord correctly listed a personal representative of the estate, it did not follow the recommendations set under Policy Guideline 43. I exercise my discretion under Rule 4.2 of the Rules of Procedure to amend the application such that the Respondent is identified as the personal representative of G.P.'s estate.

S.R. advised that the Notice of Dispute Resolution was served at the mailing address for the subject home site. I enquired whether S.R. had reason to believe that the Respondent personal representative attended the property to retrieve mail. S.R. advised that he did not and confirmed that the Respondent lives in another community. S.R. further advised that he has the Respondent's phone number but has no email address or physical address where the Landlord could send the application materials.

Rule 3.1 of the Rules of Procedure requires applicants to serve the Notice of Dispute Resolution and their evidence on each of the named respondents in the application. I find that the Landlord has failed to do so under the circumstances. Policy Guideline 12 is clear that applications dealing with deceased respondents must be served on the deceased person's personal representative. The Landlord's agent confirms that the personal representative does not check the mail at the deceased's home site nor does she live in the same community as the home site. I appreciate the difficulties faced by the Landlord with respect to service. However, without a physical address or an alternate means of serving the personal representative, I cannot find that the application was served nor can I make an order for substitutional service.

Policy Guideline 12 provides guidance when an application has not been served, indicating it may proceed, adjourned, or dismissed with or without leave to reapply. Under the circumstances, I dismiss the Landlord's application with leave to reapply, with the exception of their claim for return of their filing fee, which is dismissed without leave to reapply. No findings of fact or law are made. This dismissal does not extend any time limitation that may apply under the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: May 13, 2022

Residential Tenancy Branch