



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- a monetary order in an amount equivalent to twelve times the monthly rent payable under the tenancy agreement under section 51(2); and
- an authorization to recover the filing fee for this application, under section 72.

Both parties attended the hearing. Respondent GM (the respondent) was assisted by agent CP. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11, which prohibits the recording of a dispute resolution hearing. All the parties confirmed they understood the Rules of Procedure.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5,000.00."

The application lists the respondent as GM.

The tenant affirmed that the previous landlord is Westway Investments Ltd. The tenant received a 2 month notice to end tenancy indicating that Westway Investments Ltd. sold the rental unit to the numbered company 1219916 B.C. Ltd. (the company) and the purchaser (the company) intends to occupy the rental unit. The previous landlord's agent informed the tenant that the company's representative is the respondent.

The respondent stated that the purchaser is the company, which purchased the rental unit on June 01 or 02, 2022. The respondent is the company's director and owns 50% of the company. The respondent testified the other shareholders are not aware of this claim. The respondent requested this application be dismissed with leave to reapply.

The respondent confirmed the company's current address for service (recorded on the cover page of this decision).

The Act defines landlord as:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
- (i) permits occupation of the rental unit under a tenancy agreement, or
- (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

Based on the testimony of both parties, I find that the previous landlord Westway Investments Ltd. sold the rental unit to the company in June 2022 and that the respondent owns 50% of the company.

Section 64(3) of the Act states:

- Subject to the rules of procedure established under section 9 (3) [director's powers and duties], the director may
- (a) deal with any procedural issue that arises,
 - (b) make interim or temporary orders, and
 - (c) amend an application for dispute resolution or permit an application for dispute resolution to be amended.

Residential Tenancy Branch Policy Guideline 43 states:

If any party is not correctly named, the delegate of the Director of the Residential Tenancy Branch ("the director") may dismiss the matter with or without leave to reapply or may amend the Application for Dispute Resolution.

[...]

Parties who are named as applicant(s) and respondent(s) on an Application for Dispute Resolution must be correctly named.

[...]

To enforce Residential Tenancy Branch orders, the applicant must use the correct legal name of a respondent who is a limited liability company, corporation, or partnership.

If the party is a registered corporation or a limited liability company, then the full legal name of the corporation or company should be used on the Application for Dispute Resolution, including designations like Incorporated, Inc., Limited, Ltd., Corporation or Corp. (or the French language equivalents).

It is up to the applicant to ensure that a party is properly named so that any order granted is enforceable. The director may be unaware that a party is not properly named and may issue the order using the name set out in the application. Where a business is not properly named, for example, "Garden Apartments" instead of "Garden Apartments Ltd.," the director may dismiss the Application for Dispute Resolution with leave to reapply unless the other party is present. In that circumstance, the director may amend the Application for Dispute Resolution.

I accept the respondent's testimony that the shareholders that own 50% of the company are not aware of this application, as this application lists as respondent the company's director, not the company. I find the respondent is not correctly named in this application.

As such, I dismiss the application with leave to reapply. Leave to reapply is not an extension of timeline to reapply.

The applicant must bear the cost of his filing fee, as the applicant was not successful.

Conclusion

I dismiss the application 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: October 24, 2022

Residential Tenancy Branch