

David A. Paterson  
Governor



Deborah VanAmerongen  
Commissioner

New York State Division of Housing and Community Renewal  
Office of Rent Administration  
Gertz Plaza  
92-31 Union Hall Street  
Jamaica, NY 11433

May 20, 2009

Your letter to Mr. Gregory Fewer dated March 24, 2009 was directed to my office for a reply.

In your letter, you present a scenario, "Tenant "A" is the registered tenant for the apartment, all the lease renewals were in tenant's "A" name ONLY. Tenant "A" died, tenant's "A" wife herein referred as "B" requested that the lease be transferred in her name. The owner complied as such, creating FIRST SUCCESSION RIGHTS. The 1st Renewal Lease had tenant's "B" name only on the lease. The landlord made a typographical error by adding back the deceased tenant "A" together with tenant's "B" name on all future lease renewals. Sometime thereafter, Tenant "B" died and her brother herein referred to as "C" stated that he was entitled to succession rights. Since he was considered as the 2nd Successor to the apartment, the owner give him a lease charging the applicable vacancy increase."

You then ask two questions:

1. Based on the above scenario, was the owner accurate in considering "C" as the 2nd Successor to the apartment?
2. If the owner was accurate in considering tenant "C" as the 2nd Successor, is the owner entitled to charge a vacancy allowance?

The answer to Question #1 is "yes" and the answer to Question #2 is "yes".

However, please be advised, that this opinion is offered based solely on the information presented in your scenario. Any tenant involved in the scenario would have the right to file a complaint with our agency and present evidence before the Rent Administrator, whose decision would be based on the submission of evidence by all affected parties.

I trust this information is of assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read "B Falbo", with a long horizontal flourish extending to the right.

Bruce Falbo  
Bureau Chief  
Rent Information Bureau

Bf/lc

Log #COL-2541