

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended (the “Act”)

AND

IN THE MATTER OF

[INDIVIDUAL 1]

AND IN THE MATTER OF A CLAIM TO
THE REAL ESTATE SPECIAL COMPENSATION FUND BY

[APPLICANT 24]

DECISION ON CLAIM AGAINST
THE SPECIAL COMPENSATION FUND

1. [Applicant 24] (the “**Applicant**”) claims against the Real Estate Special Compensation Fund (the “**Fund**”) for losses of \$13,550 she alleges occurred as a result of [Individual 1] providing rental property management services to her.
2. These are my reasons determining whether the Applicant suffered a compensable loss as defined by section 60 of the *Real Estate Services Act*, SBC 2004, c 42 (“**RESA**”). For the reasons that follow, I find that [Applicant 24] has not suffered a compensable loss.

Proceedings

3. On April 30, 2025, I, as Hearing Officer,¹ determined, pursuant to section 63(1) of RESA, that a hearing into whether the Applicant had suffered a compensable loss would proceed by way of written submissions.
4. This hearing is held pursuant to section 63(1) of RESA, which sets out that if a claim against the Fund is made, the Superintendent of Real Estate (the “**superintendent**”) must consider the claim and may conduct a hearing to determine whether the person making the claim suffered a compensable loss and, if applicable, assess the amount of that loss.
5. The Applicant made submissions and provided documents with her application and during the determination under section 63(1) of RESA. BCFSA provided her the opportunity to make further submissions during the written hearing but she has not provided any further submissions or documents.

Issues

6. The issues to be determined are:
 - a. Did the Applicant suffer a compensable loss as defined by section 60 of RESA?
 - b. If so, what is the amount of that loss?

¹ The Superintendent of Real Estate has delegated the statutory powers and duties set out in sections 61 to 67 of RESA to Hearing Officers.

Applicable Law

Section 60 of RESA defines “compensable loss” as follows:

“compensable loss” means loss suffered by a person in relation to real estate services that is the amount of money that

- (a) was held or received by
 - (i) a licensee,
 - (ii) an officer, director, controlling shareholder or partner of the responsible brokerage,
 - (iii) an employee of the licensee, of the responsible brokerage or of another related licensee of that brokerage, or
 - (iv) a person acting in an independent contractor relationship with the licensee, with the responsible brokerage or with a related licensee of that brokerage,

from, for or on behalf of a principal in relation to real estate services, including any amount that is or is intended to be remuneration to a licensee, and

- (b) was, as applicable,
 - (i) misappropriated or wrongfully converted by a person referred to in paragraph (a) (i) to (iv),
 - (ii) intentionally not paid over or accounted for, by a person referred to in paragraph (a) (i) to (iv), to the person entitled to the money, or
 - (iii) obtained by the fraud of a person referred to in paragraph (a) (i) to (iv),

but does not include loss that

- (c) is claimed by a licensee or former licensee as remuneration to the licensee or former licensee,
- (d) was caused by conduct that occurred before section 61 (1) [*claim for compensation*] came into force,
- (e) was caused by conduct of a licensee acting under an exemption provided by Part 9 of the rules, or
- (f) is prescribed;

7. Section 61 of RESA provides that to make a claim for compensation from the special compensation fund, a person must apply in writing to the superintendent within the time limit established by section 61(2), which is set out as follows:

61(2) The time limit for making a claim is 2 years after the earliest of the following:

- (a) the date on which the person making the claim became aware that the compensable loss occurred;
- (b) if the licence of the responsible brokerage was cancelled or suspended by an order under section 45 (2) (a) [*orders in urgent circumstances relating to licensees*] at any time after the conduct that caused the compensable loss, the date of that cancellation or suspension;
- (c) the date the superintendent publishes a notice, in accordance with the regulations, that compensable loss may have occurred.

8. Section 61(1) requires that an application must include the particulars of the conduct on which the claim of compensable loss is based, if the person is relying on a court decision, a copy of the decision, and any other information required by the superintendent.

Background

9. The information before me on this application consists of the information and documents provided by the Applicant in her application and during the determination under section 63(1) of RESA and BCFSA's licensing records.
10. The following is not a recitation of all the evidence and information before me. I have reviewed all the evidence and I provide the following as context for my reasons.
11. The alleged conduct occurred between October 2023 and February 2024. The Applicant made her claim in April 2024. I find that the Applicant's claim was made within the time limit specified by section 61 of RESA.

The Alleged Conduct

12. The Applicant alleges that [Individual 1] provided her rental property management services by helping her find a tenant for her property in Langley (the "**Property**"). The Applicant says that [Individual 1] presented herself as a "professional rental manager". The Applicant has provided a business card with [Individual 1]'s photograph, name, phone number, and email address. The business card states "Your Langley Rental Specialist" below [Individual 1]'s name.
13. The Applicant states that [Individual 1] refused to sign a written management contract but agreed to refund the \$1,650 commission if the tenant left the Property within a year.
14. The Applicant alleges that [Individual 1] found a tenant (the "**Tenant**") for the Property in October 2023 and has provided a copy of the written tenancy agreement for the Property, which commenced on November 1, 2023 and was to end on June 30 2025. This agreement is signed by the Applicant and the Tenant. The Applicant alleges that she paid [Individual 1] a commission of \$1,650 to arrange this tenancy. The Applicant has provided an invoice for "Property Rental Services" in that amount and which is billed to the Property.
15. The Applicant claims that the Tenant abandoned the Property three months after moving in and that the Tenant still owes her utility fees and "the commission fee". It is not clear to me if that is a reference to the commission the Applicant paid to [Individual 1] or a commission paid to relet the Property after the Tenant left.
16. The Applicant also alleges that [Individual 1] failed to perform a background check on the Tenant and may have conspired with the Tenant in some way. The Applicant says that she does not have forwarding or contact information for the Tenant. Although [Individual 1] contacted the tenant in February 2024, the Applicant alleges [Individual 1] did not advocate for her or "stand in a fair position."
17. In addition to the \$1,650 commission, the Applicant also claims for three months of lost rent totaling \$9,900, and \$2,000 for a "re-rental fee". The total of those amounts is \$13,550.

[Individual 1]'s Licensing Status

18. I find, in accordance with BCFSA's licensing records, [Individual 1] has never been licensed as a real estate licensee. I also find that [Individual 1] was not employed, engaged by, or acting on behalf of a licensee or a licensed brokerage in relation to the services she provided to the Applicant or at all. There is no evidence that she was so employed, engaged, or acting. I also find that she was not

acting as an officer, director, controlling shareholder, or partner of a licensed brokerage. There is no evidence that she held any of those positions at the relevant time or at all.

Reasons and Decision

19. To establish that a compensable loss has occurred, the Applicant must show all of the following:
 - a. an amount of money was held or received by the persons contemplated in subparagraph (a) of the definition of “compensable loss”;
 - b. the money was held or received by that person for or on behalf of a principal in relation to real estate services;
 - c. the money was misappropriated, wrongly converted, intentionally not paid over to the person to entitled to it, or obtained by the person by fraud; and
 - d. the loss does not fall within the scope of the exclusions set out in subparagraphs (c)-(f) of the definition of “compensable loss”.
20. The fundamental problem with the Applicant’s claim is that there is no evidence that [Individual 1] fell within the list of enumerated persons in subparagraph (a) of the definition of “compensable loss”. Although it appears that [Individual 1] provided rental property management services to and on behalf of the Applicant by finding a tenant for the Property and was paid a commission for doing so, the simple fact is that [Individual 1] was not a licensee; employed by a licensee or licensed brokerage; engaged as an independent contractor by a licensee or licensed brokerage; or a director, officer, controlling shareholder, or partner of a licensed brokerage.
21. The Fund was established to compensate members of the public where they suffer losses as a result of licensees, or those acting on behalf of licensees, misappropriating, converting, failing to account for, or withholding funds to which they are entitled or because a licensee has, or those acting on behalf of a licensee have, obtained funds from a member of the public by way of fraud. The Fund was not established to compensate for losses caused by persons who provide real estate services without being licensed to do so, even where the nature of their conduct would have otherwise met the definition of “compensable loss”.
22. As a result, I find that the Applicant has not established that she suffered a compensable loss because she has not established that the person who caused her alleged losses falls within the list of persons set out in subparagraph (a) of the definition of “compensable loss” in section 60 of RESA. There is no need for me to address the other aspects of the Applicant’s claim, such as whether the funds claimed were held or received by [Individual 1], were misappropriated, converted, withheld, not accounted for, or obtained by fraud, or to assess the amount of any loss; therefore, I decline to do so.

Conclusion

23. I find that the Applicant did not experience a compensable loss as contemplated by section 60 of RESA. [Individual 1], the individual who allegedly caused losses to the Applicant, did not and does not fall within the list of persons set out under subparagraph (a) of the definition of “compensable loss” in section 60 of RESA and therefore the Applicant’s claim cannot succeed.
24. I dismiss the Applicant’s claim.

Dated this 10th day of June, 2025, at the City of North Vancouver, British Columbia

“Original signed by Gareth Reeves”

Gareth Reeves
Hearing Officer