

Submission

20 April 2011

My grandmother died 2 July 2003. I was her executor.

She had been living in a unit she had purchased (a unit trust arrangement I think) from a retirement village in Adelaide. I am happy not to name it because things may have changed since then. But some six months went by while they stalled in handing over what was due to us from the re-sale of the room. A new resident was *in situ*, but was awaiting sale of his 'independent' unit (in the same complex) thus no money was available to us. The contract (on their interpretation) allowed them to sit on our \$85,000 for years (presumably). They also had continued to charge us the service fee for the un-let room until the new tenant moved in.

They refused to use the arbitration clause in the contract, figuring that any legal action would cost us too much and would not come on board for months.

I obtained legal advice. They told the proprietor in a letter that there was an implied term that new residents seeking to buy in to a room should be offered/shown unlicensed rooms in the order at which they became vacant. They demanded the payment due to the estate.

Nothing happened. Many more weeks went past, and finally the sale of the independent unit happened, and we got our money. They did not seek legal advice so their responses were ill-informed and poorly drafted, frustrating any moves towards a settlement.

The whole episode was distasteful, distressing and unnecessary.

Contracts should be made to say that there will be a settlement of moneys owing to an estate within a certain period of time.

Contracts should have express terms that new residents seeking to buy in to a room should be offered/shown vacant rooms in the order in which they became vacant.

Rick Sarre