



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNDC, FF, SS

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for compensation for damage to the unit, site or property as well as for loss or damage under the Act or tenancy agreement, to recover the filing fee for this proceeding and to serve documents in a different way than required by the Act.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on August 16, 2010. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Section 60 says the latest time for dispute resolution can be made is:

- (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.
- (2) Despite the *Limitation Act*, if an application for dispute resolution is not made within the 2 year period, a claim arising under this Act or the tenancy agreement in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3).
- (3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this Act, the other party to the dispute may make an application for dispute resolution in respect of a different dispute between the same parties after the applicable limitation period but **before the dispute resolution proceeding in respect of the first application is concluded.**

In this case the Landlord's application is dated July 16, 2010, and received by the Residential Tenancy Branch dated August 16, 2010, which is more than 2 years after the tenancy ended in April 2008. As well, the Landlord's application was not made during the time period before the first dispute resolution application was concluded on



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January 26, 2010. In order to meet the application time limit requirements of section 60 of the Act the Landlord's application would have to have been made before May 1, 2010. Consequently the Landlord's application is dismissed due to not filing the application as required by the time limits set out in section 60 of the Act.

Conclusion

The Landlord's application is dismissed without leave to reapply as the time limit to apply for dispute resolution with regard to this tenancy has expired.

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*.