



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC and FF

Introduction

This hearing was convened on an application by the landlord made on September 13, 2012 seeking a monetary award for unpaid rent/loss of rent on the claim that the tenant moved out of the rental unit without giving notice.

Evidence given with the application and confirmed by both parties at the hearing, indicates that the subject tenancy ended on March 31, 2010, two years and five and one-half months before this application was filed.

Section 60 of the *Residential Tenancy Act* sets a time limit of two years from the end of a tenancy in which an application must be made, as follows:

- (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.

The landlord stated that, during a previous hearing on this tenancy on August 11, 2010 on the tenant's application, the arbitrator advised him that, if he wished to make a claim for a monetary award, he would have to file his own application. He stated he did not do so because he believed he and the tenant could come to a settlement.

While it is correct that the landlord could have made application, he would need to have done so by March 31, 2012 or April 30, 2012, depending on when the tenancy was determined to have ended.

Therefore, I must dismiss this application without leave to reapply as it is out of time.

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: December 03, 2012.

Residential Tenancy Branch