



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Decision Codes: MNR, MNDC, & FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the respondents by mailing, by registered mail to where the respondents reside on July 5, 2013.

The landlords submitted the tenant's claim should be dismissed as it was not brought within the 2 year limitation period. I heard evidence and submissions on that issue. I then advised the parties I would reserve on that issue and I continued with the hearing. I stated that if the landlords were successful with their submission on this issue the tenant's claim would be dismissed but that I determined it was appropriate to hear all of the evidence at this time so that the parties would not have to be inconvenienced to attend a reconvened hearing if the landlord's submission was not successful..

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the Tenant is entitled to a monetary order and if so how much?

- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on March 1, 2009. The parties testified the tenancy agreement was in writing but neither produced a copy of the agreement. The tenancy agreement provided that the tenant(s) would pay rent of \$750 per month payable on the first day of each month. The tenants paid a security deposit of \$375 at the start of the tenancy.

The tenant testified that in 2010 and 2011 the landlord agreed that he would reimburse the tenant the cost of materials and labor for making certain repairs. The landlord denies that he agreed to pay the tenant any money or that they were aware the tenant was making certain repairs until the repairs were completed.

The tenant seeks compensation as follows:

- a. \$193 for the cost of exterior doors and \$150 for installation
- b. \$56 for the cost of replacing an interior door with a screen door and \$100 for installation
- c. \$156 for the cost of removal and \$150 installation for the cost of replacing his daughter's bedroom window
- d. \$320 for the cost of removal and disposal of a rotten back deck
- e. \$200 for yard maintenance
- f. Undisclosed amount for reimbursement of extra materials for installation of door and window
- g. Reimbursement of rent for 6 days they were without water because the water froze.

In the early part of 2011 the landlords listed the rental property for sale. The property was sold with completion on June 10, 2013. The landlords testified that the security deposit and the pro-rated rent were transferred to the new owners on June 10, 2011 as set out in the Statement of Adjustments for the sale of the rental property.

The landlords submit the tenants' claim should be dismissed as the 2 year limitation period provided in the Residential Tenancy Act has expired. They testified the tenant gave them no indication of any problems until they received the within Application for Dispute Resolution which is after the two year limitation period had expired. They also dispute the tenant's claims on the merits.

The tenant testified he was aware the landlords were attempting to sell the rental property but was not aware when the transaction completed. He further testified that he did not enter into a new tenancy agreement with the new owner until the end of June. He did not provide a copy of that tenancy agreement. When asked why he delayed in bringing the application he testified he was under a lot of personal stress including the passing of the next door neighbor who was like a family member.

Preliminary Matters:

Section 60 of the Residential Tenancy Act provides as follows:

Latest time application for dispute resolution can be made

60 (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).

The property was transferred into the name of the new owners as of June 10, 2011. The respondents did not receive rental income for the period after that time as the rent for June 2011 was divided between the sellers and buyer in accordance with the Statement of Adjustments. The security deposit was also transferred to the new owners at that time.

After carefully considering the evidence and submissions I determined the tenancy between the applicant and respondents came to an end on June 10, 2011. Section 60(1) provides that the two year limitation period starts running from the date in which the tenancy to which the matter relates ends or is assigned. It does not state that it comes to an end when both parties become aware of it. I am satisfied the respondents were no longer landlords after June 10, 2011 and that the tenancy came to an end on that date with the completion of the sale of the property.

The Residential Tenancy Act gave the tenant 2 years from that date in which to file his claim. This is more than sufficient time to bring a claim. I determined the tenants claims are barred by section 60 of the Residential Tenancy Act. **The tenant's claim is dismissed.**

Given my conclusion on this preliminary issue I determined it was not necessary to consider the tenant's claim on the merits.

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: August 01, 2013

Residential Tenancy Branch