



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act, regulations or tenancy agreement and for the return of the Tenant's security deposit.

The Tenant said he served the Landlords with the Application and Notice of Hearing (the "hearing package") by registered mail on October 25, 2013. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

At the start of the conference call it was determined the Tenant made his application on October 23, 2013 and the Tenant said he was evicted on October 19, 2011. The Landlord said the tenancy ended on October 20, 2011 due to unpaid rent. Under section 60 of the Act an application must be made within 2 years of the end of the tenancy and if a claim is not made within the 2 year time limit the claim ceases to exist for all purposes unless the other party has made a claim and then the first party has until the Hearing date to counter claim. In this situation the other party (the Landlord) did not make an application so the time limitation is 2 years from October 19 or October 20, 2011. The Tenant submitted written evidence that he started a new tenancy on October 21, 2011. As the application was made October 23, 2013; I find the application is over the 2 year time limit.

The Tenant said that the time limit should be taken from the time he received the previous hearing decision as he thought he would receive an Order of possession from the November 8, 2011 hearing. The Tenant said he received the decision towards the end of November, 2011 and he was not awarded an Order of Possession. The Dispute Resolution Officer indicated in that decision that he could apply for monetary compensation for the wrongful eviction and for the mistreatment he received from the Landlords. The Tenant said this is his application for that monetary compensation. The Tenant said he thinks the 2 year time limit should have started from when he received the decision of the previous hearing which was the end of November, 2011. If that was the case then the Tenant's application would be within the 2 year time limit to make an application.

The Tenant also said he disagreed with the previous decision dated November 18, 2011, but he did not make an application for a review of that decision.

The Landlords said they evicted the Tenant for unpaid rent. The Landlords said the Tenant did not pay his rent for September or October, 2011. The Landlords continued to say they kept the Tenant's security deposit for payment of ½ the September, 2011 unpaid rent.

The Tenant said he paid the rent for September and October, 2011.

Neither party had any evidence to support whether the rent was paid or not.

In considering the written evidence and the testimony I find the Tenant made his application after the 2 year time limit as stated in section 60 of the Act. Consequently I dismiss the Tenant's application without leave to reapply.

Conclusion

The Tenant's application is dismissed without leave to reapply due to late filing of the application.

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: January 28, 2014

Residential Tenancy Branch