



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

Tenant's application filed September 11, 2014: MNDC

Landlords' application filed January 30, 2015: MND; FF

### **Introduction**

This Hearing was scheduled to consider cross applications. The Tenant seeks compensation for damage or loss under the Act, regulation or tenancy agreement.

The Landlords seek a monetary award for damage; "other" orders; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

### **Issues to be Decided**

- Is the Tenant entitled to a monetary award in the amount of \$25,000.00?
- Are the Landlords entitled to a monetary award in the amount of \$4,585.96?

### **Background and Evidence**

The Landlord referred to an Order of Possession which was issued at a previous hearing. He provided the file number for the Decision on the previous hearing.

The previous hearing was held on September 18, 2012. A Decision was issued on September 18, 2012. The Tenant had applied for more time to file an application to dispute a One Month Notice to End Tenancy for Cause (the "Notice"), to cancel the Notice, and for compensation for damage or loss under the Act, regulation or tenancy agreement. The arbitrator dismissed the Tenant's application for compensation with leave to reapply because it was not sufficiently related to the main issue which was to cancel the Notice.

At the September 18, 2012 hearing, the arbitrator found that the Tenant received the Notice on July 20, 2012. She dismissed the Tenant's application to extend the 10 day time period to dispute the Notice because she found that the Tenant did not provide

sufficient evidence that there were exceptional circumstances that precluded him from filing his application until 24 days after he received the Notice. Therefore, the Tenant's application to cancel the Notice was not heard.

The Landlord sought an Order of Possession. Under the provisions of Section 55 of the Act, the Landlord was granted the Order of Possession.

On September 26, 2012, the Tenant filed an Application for Review Consideration with respect to the September 18, 2012 Decision. The reviewing arbitrator dismissed the Tenant's Application for Review Consideration because the Tenant did not file his Application within the two days required by the Act. The Decision and Order of September 18, 2012 was confirmed.

### **Analysis**

The arbitrator on the September 18, 2012 Decision did not make a finding with respect to the date that the tenancy ended; however, based on the provisions of Section 47(2) of the Act, I find that the tenancy ended on August 31, 2012.

Section 60 of the Act provides:

#### **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).
- (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 Tenant filed his Application for Dispute Resolution on September 11, 2014. The Landlords filed their Application for Dispute Resolution on January 30, 2015. I find that the Tenant's application was not filed within the required 2 year time limit and that therefore his claim has ceased to exist pursuant to the provisions of Section 60(2) of the Act. Similarly, the Landlords' claim has also ceased to exist.

**Conclusion**

I find that, pursuant to the provisions of Section 60 of the Act, both parties' claims have ceased to exist. Both Applications are dismissed without leave to reapply.

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: April 15, 2015

---

Residential Tenancy Branch

