



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application for a Monetary Order for damage to the rental unit or property; unpaid rent and utilities; damage or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit. The tenant did not appear at the hearing. The landlord testified that he personally served the hearing package upon the tenant at his place of work on August 5, 2016 in the presence of his witness, who was in attendance at the hearing. I accepted the evidence before me that the tenant was served with notification of this proceeding as described by the landlord and I continued to hear from the landlord without the tenant present.

Upon review of the landlord's evidence and upon hearing from the landlord, I determined that the tenancy came to an end in January 2014. The landlord made this Application on August 4, 2016 which is more than two years after the tenancy ended. The landlord explained that he had filed a claim against the tenant previously and that case had been dismissed with leave in April 2015. A search of the Residential Tenancy Branch records confirmed that a hearing was held and a decision was issued in April 2015 (file number referred to on cover page of this decision). The Arbitrator wrote in the decision: "I dismiss the Landlord's application **with leave to reapply**. This does not extend any existing time limits that may apply." The landlord stated that he was unaware of any time limit for making a claim.

Section 60 of the Act provides for the latest time an Application for Dispute Resolution can be made. Section 60 is reproduced below:

### **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.

[Reproduced as written with my emphasis underlined]

Since the tenancy ended in January 2014, I find the landlord's claims against the tenant ceased to exist after January 2016. Accordingly, I find the landlord was statute barred from making an Application for Dispute Resolution after January 2016. Therefore, I must decline to consider the landlord's Application that is before me since it was made in August 2016.

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: February 02, 2017

---

Residential Tenancy Branch