



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MNDC, FF

### Introduction and Preliminary Matter

This hearing convened as a result of an Application for Dispute Resolution, filed June 9, 2017, wherein the Tenant sought monetary compensation from the Landlord in the amount of \$4,388.91 as well as recovery of the filing fee.

The Tenant stated that the tenancy ended on January 31, 2015; additionally, documentary evidence filed by the Tenant confirms this as the date the tenancy ended.

Section 60 of the *Residential Tenancy Act* provides that the latest time an application for dispute resolution can be made is within 2 years of the date the tenancy ends. In this case, the Tenant had until January 30, 2017 in which to make her application. For greater clarity I have reproduced that section 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).
- (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.

Limitation periods are deadlines by which an application must be made. Limitation periods are used to provide for efficient resolution of disputes as well as finality and closure to people involved in conflict. Limitation periods also encourage timely resolution of disputes and preserve the integrity of evidence such as documents and physical objects as well as testimony and people's recollection of events.

The Tenant submitted that she attended a previous hearing wherein her application was dismissed with leave to reapply. The Tenant characterized the hearing before me as a "continuation" of that previous hearing. The file number for that application is provided for on the unpublished cover page of this my Decision. A review of the branch records confirms the Tenant applied for dispute resolution on November

23, 2016. Having failed to serve the Landlord in accordance with section 89 of the *Residential Tenancy Act*, her application was dismissed.

In the Decision, the previous Arbitrator granted the Tenant leave to reapply; however, there is no reference in his decision that the Tenant was at that time already past the two year limitation period, or that his Decision would have the effect of extending any statutory limitation periods. The record of the proceeding is contained in the previous Decision and there is no indication that the previous Arbitrator turned his mind to the limitation period at all. It was open to the previous Arbitrator to adjourn the Tenant's matter to permit service, or dismiss her matter; he chose the latter such that her original application was dismissed.

The application before me was not a continuation of the November 23, 2016 application; rather it was a new application. As the Tenant failed to make this new application within the two year limitation period provided for in section 60 of the *Act*, her claim ceases to exist. Accordingly, I decline jurisdiction to hear her application.

The Tenant indicated she was unsatisfied with my Decision to decline jurisdiction; however, it is most unfortunate she waited so long to bring her claim forward.

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: November 21, 2017

---

Residential Tenancy Branch