



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) for monetary compensation, for the return of the security deposit and for the recovery of the filing fee paid for the Application for Dispute Resolution.

One of the Tenants and both Landlords were present for the teleconference hearing and were affirmed to be truthful in their testimony. As the Tenant stated that the tenancy ended on November 30, 2016 and the Landlords stated that the tenancy ended on December 4, 2016, the time limitations for filing an application were discussed and will be outlined below.

Preliminary Matter – Limitation Period

Section 60 of the *Act* states the following:

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.

Although the parties did not agree on the exact date that the tenancy ended, they stated dates of November 30 and December 4, 2016. The Tenants filed the Application for Dispute Resolution on January 11, 2019. Therefore, regardless of the exact date the tenancy ended, I find that the application was filed outside of the two-year allowable time period.

The Tenant argued that the delay in filing was caused by the Landlords' lack of attendance at previous hearings. The Tenant provided two previous file numbers which are included on the front page of this decision. The first file was based on the Tenants' application. In the decision dated June 2, 2017 the arbitrator wrote that the application was dismissed with leave to reapply due to insufficient evidence that the Tenants' forwarding address had been provided in writing.

It was also noted in the decision dated June 2, 2017 that leave to reapply does not extend any applicable time limitations under the *Act*.

The second file was based on the Landlords' application. In the decision dated September 26, 2017, the arbitrator writes that the application is dismissed due to the Landlords/Applicants not attending the hearing.

Section 60 of the *Act* is clear that an application must be made within two years from the date that the tenancy ended. As the Tenants applied on January 11, 2019, outside of the two-year timeframe since the tenancy ended, I find that Section 60(2) of the *Act* applies and the claim in relation to this tenancy "ceases to exist".

Therefore, pursuant to Section 60 of the *Act*, the Application for Dispute Resolution is dismissed, without leave to reapply.

Conclusion

Pursuant to Section 60 of the *Act*, the Tenants' application is dismissed without leave to reapply as the application was filed more than two years after the end of the tenancy.

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: May 07, 2019

Residential Tenancy Branch