



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for compensation under the Act, and for the return of the security deposit.

Both parties appeared.

Counsel submits in their written documentation that the tenant has not complied with the Residential Tenancy Branch Rules of Procedures due to lack of details, late evidence not providing a proper service address.

Preliminary and Procedural issues

In this case, the tenant indicated in their application filed on February 28, 2018, that the tenancy ended on February 28, 2017; however, the tenant stated at the hearing they did not vacate the property until March 10, 2017. I find the tenancy legally ended on February 28, 2017, and the tenant was overholding the property after that date.

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

I find the tenant application was filed outside the statutory time limit as the last day possible to make an application was February 27, 2019.

Even, if I accept the tenancy ended on March 10, 2017, which I do not, the following would apply.

Section 59 (2) of the Act states

An application for dispute resolution must

- (a) be in the applicable approved form,
- (b) **include full particulars of the dispute that is to be the subject of the dispute resolution proceedings**

Residential Tenancy Branch Rules of Procedure

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- **a detailed calculation of any monetary claim being made;**
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- **copies of all other documentary and digital evidence** to be relied on in the proceeding, subject to Rule 3.17 [*Consideration of new and relevant evidence*].

The tenant provided a false address in their application as the address they used for service was the subject rental unit, in which the tenant had not resided in the residence for two years. It was on May 23, 2019, counsel for the landlord had to contact the tenant by email, to obtain a proper service address. The tenant on June 14, 2019, amended their application to provide a proper service address.

In the tenant's application filed on February 28, 2019, they claimed compensation in the amount of \$12,800.00. The tenant's monetary worksheet is dated June 4, 2019 and filed in evidence on June 17, 2019. I find the tenant has not complied with section 59 of the Act and 2.5 of the Rules of Procedures, as they were required to provide a detailed calculation of their monetary claim with their application. This is to give the other party the full particulars of the claim made against them.

Further, the tenant's application only states the following details,

“the landlord didn't follow the rental agreement to provide a rental place as described on the rental contract with resulted the renters lived in an unsecure and unexpected environment”

[Reproduced as written.]

I find this is insufficient details of the claim and not in compliance with section 59 of the Act, which requires the full particulars of the claim must be given, such as dates, time or how was it unsecure and unexpected and contrary to the rental agreement. This is to give the other party the full particulars of the claim.

Furthermore, I find the tenant has not complied with the Rules of Procedures 2.5 as all copies of documents and digital evidence they wish to rely upon at the hearing must be submitted with their application. I find the tenant had the documents and digital evidence at the time they made their application, as they predate the tenant's application, such as the text messages and videos. These documents were required to be served on the respondent with their application.

In addition, the respondent was not served by June 3, 2019, with the tenant's evidence. This was the last day the tenant had to serve any evidence that was not available at the time their application was made. The tenant sent their evidence to the respondent's legal counsel on June 5, 14th, and 15th by email, which is not within the required time limit and is not an acceptable method of service. I find the tenant has not complied with the Rules of Procedures and the service requirements of section 88 of the Act.

I find the tenant's actions violate the principles of natural justice, administrative and procedural fairness and this was a direct attempt to put the respondent at a disadvantage.

Base on the above finding, I find the tenant's application cannot proceed, as the tenant has not complied with section 59 and 60 of the Act and the Rules of Procedures. The tenant's application is dismissed without leave to reapply as any future application would be barred from being heard.

Conclusion

The tenant has failed to comply with section 59, 60 of the Act and the Rules of Procedures. The tenant's application is dismissed.

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: June 19, 2019

Residential Tenancy Branch