



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MS DRYCLEANING & SHOE REPAIR &
TAILORING and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, RPP

Introduction

This hearing dealt with an application for dispute resolution by the tenant pursuant to the *Residential Tenancy Act*. The tenant applied for a monetary order in the amount of \$35,000.00 to recover the cost of emergency repairs and for compensation for loss under the *Act*. The tenant also applied for the return of her personal property.

Preliminary and procedural matters

The tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. Section 59 (3) of the *Residential Tenancy Act* states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

The purpose of serving a notice of hearing and application for dispute resolution to the respondent is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal.

The tenant testified that the Application for Dispute Resolution and Notice of Hearing were sent to a different person and not to the landlord named on the tenant's application.

By the tenant's own testimony, I find that the tenant served the hearing documents on a party that is not named in this dispute. Since the respondent landlord was not served documents in accordance with section 89 and therefore was not provided with an opportunity for rebuttal, I dismiss the tenant's application.

It is important to note that this tenancy ended in May 2009. Section 60 of the *Residential Tenancy Act* addresses the latest time that an application for dispute resolution can be made. Section 60(1) states that an application for dispute resolution must be filed within two years of the date that the tenancy ended. If an application is not made within the two-year period, a claim arising under this *Act* or the tenancy agreement in relation to the tenancy ceases to exist.

Therefore even if the tenant had served the landlord with the hearing documents, I find that the tenant failed to make this application within two years of the date the tenancy ended. Pursuant to section 60 of the *Residential Tenancy Act*, since the tenant did not file an application for dispute resolution within two years of the date that the tenancy ended, a claim arising under this *Act* or the tenancy agreement in relation to the tenancy ceases to exist. Therefore I must dismiss the tenant's application for a monetary order related to this tenancy.

Conclusion

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: October 25, 2019

Residential Tenancy Branch