



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for a monetary order for compensation for damage or loss under the Act, Residential Tenancy Regulation ("Regulation") or tenancy agreement, pursuant to section 67 of the Act.

Both the tenant (GB) and the landlord, represented by resident manager RY, attended the hearing. Witness for the landlord AP also attended.

As both parties were in attendance, I confirmed that there were no issues with service of the tenant's application for dispute resolution.

Preliminary Issue – Amendment

During the hearing the landlord's representative testified the current address of the tenant is wrong. The correct unit address is 1304, not 304. The tenant agreed to this testimony. Pursuant to section 64 of the Act, I amend the tenant's application for dispute resolution to change the current address to unit 1304 of the address provided.

Preliminary Issue – Application for Dispute Resolution

The tenant affirmed he submitted a paper application for dispute resolution on September 30, 2019 and amended it on October 03, 2019. Both the application and the amendment were submitted in person at the Residential Tenancy Branch office.

The application for dispute resolution has not been uploaded to the Residential Tenancy Branch system and it is not available.

Residential Tenancy Rule of Procedure 6.1 states:

6.1 Arbitrator's role

The arbitrator will conduct the dispute resolution process in accordance with the Act, the Rules of Procedure and principles of fairness.

To start proceedings, section 59(2) of the Act requires an application setting out full particulars of the dispute. I find it is in the best interest of procedural fairness and natural justice to dismiss the application with leave to reapply.

Section 60 of the Act states:

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.

Section 66 of the Act states:

66 (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59 (3) [starting proceedings] or 81 (4) [decision on application for review].

Both parties agreed the tenancy ended on October 18, 2017.

I find the tenant did file an application for dispute resolution 18 days before the statutory deadline. The unavailability of the application is an administrative error and not the fault of the tenant. I therefore extend the timeline for the tenant to reapply to 23 days from the date of this decision. This preserved the timing of the tenant's original application and allows for five consecutive days for this decision to be sent to him by ordinary mail.

Conclusion

I dismiss the tenant's application with liberty to reapply. Pursuant to my authority under section 66 of the Act, I am extending the time for the tenant to reapply to 23 days from the date of this decision.

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: January 27, 2020

Residential Tenancy Branch