



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNDCT, FFT

### **Introduction**

This hearing convened as a result of a Tenants' Application for Dispute Resolution, filed on August 12, 2020, wherein the Tenants sought monetary compensation in the amount of \$27,700.00 including compensation pursuant to section 51(2) of the *Residential Tenancy Act* (the "Act") and recovery of the filing fee.

The hearing of the Tenants' Application was scheduled for 1:30 p.m. on December 3, 2020. The line remained open until 1:41 p.m. and the only participant who called into the hearing during this time was the Respondent Landlord. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

### **Analysis and Conclusion**

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

#### **Commencement of Hearing:**

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

#### **Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

As the Applicants, the Tenants bear the burden of proving their claim on a balance of probabilities. As the Tenants did not call into the hearing by 1:41 p.m., and the Landlord called in and was ready to proceed, **I dismiss the Tenants' claim without leave to reapply.**

Although I have dismissed the Tenants' claim for failure to attend the hearing, I confirm that I would have dismissed their claim for failing to apply within the strict timelines imposed by the *Act*. The evidence before me confirms that this tenancy ended April 30, 2018. The Tenants applied for Dispute Resolution on August 12, 2020. Section 60 of the *Act* provides 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.

**The Tenants applied for Dispute Resolution beyond the 2-year limitation imposed by section 60, as such, their claim is statute barred.**

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: December 03, 2020

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Residential Tenancy Branch