



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, MNDC

Introduction, Preliminary and Procedural Matters-

This telephone conference call hearing was convened as the result of the tenants' application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order requiring the landlord to return their personal property; and
- compensation for a monetary loss or other money owed.

The hearing began at 11:00 a.m. Pacific Time on Thursday, October 28, 2021, as scheduled and the telephone system remained open and was monitored for 12 minutes. The tenant did not call into the hearing; however, the landlord was present.

During this time, the landlord submitted that the tenant did not serve their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) and only learned of the hearing through an email from the Residential Tenancy Branch (RTB). The landlord did not know what the tenants had applied for.

Additionally, the tenants submitted evidence, which included a previous dispute resolution Decision between the parties, dated July 5, 2019. In that Decision, the other arbitrator wrote that the tenant testified that she had vacated the rental unit on June 9, 2019, although in this application, the tenants said the tenancy ended on July 4, 2019.

Rules 7.3 and 7.4 of the Rules of Procedure provides as follows:

7.3 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.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenants, I **order the application dismissed, without leave to reapply.**

Had the tenants attended the hearing, the tenants would have been informed that their application would be dismissed, for two reasons.

When the tenant, BR, attended the previous hearing on July 4, 2019, they provided affirmed testimony that they vacated the rental unit on June 9, 2019.

Section 44 of the Act provides for how a tenancy ends, more particularly for consideration in this case, the tenancy ends when a tenant vacates the rental unit.

In the case before me, this tenancy ended on June 9, 2019, when the tenants vacated the rental unit.

Under section 60 of the Act, an application for dispute resolution must be made *within* 2 years of the date that the tenancy to which the matter relates ends.

As this tenancy ended on June 9, 2019, they were beyond the two-year limitation period allowed under the Act, when they filed their application on July 1, 2021, and I would not have proceeded with the hearing on their application.

Additionally, the tenants were required to serve the landlord with their application package and they did not. As a result, I would not have proceeded with the hearing on their application.

The tenants are now informed that any future applications regarding this tenancy are beyond the two-year limitation period. The landlord may file this Decision in the event the tenants do make a future application in this matter.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: October 29, 2021

Residential Tenancy Branch