



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FirstService Residential
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

**MNSD, MNDCT, MNETC, RPP (tenant)
MNSDS-DR (tenant)**

Introduction

This hearing dealt with two applications by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for the landlord to return the security deposit pursuant to section 38;
- 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*;
- An order to return the tenant's personal property pursuant to section 65; restrict or suspend the landlord's right of entry pursuant to section 70.

The tenant attended. The agent JG and the lawyer LM attended for the landlord ("the landlord"). All parties had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained.

Preliminary Issue

At the outset the landlord requested the tenant's application be dismissed as it was filed outside the 2-year period allowed under the *Act*.

Section 60 of the *Act* states 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 parties had a previous hearing on May 6, 2019 and a Decision was made by an Arbitrator on May 7, 2019. Reference to the file number appears on the first page.

In the previous Decision, the Arbitrator granted the landlord an Order of Possession effective May 31, 2019 after service on the tenant. If the tenant failed to comply with this Order of Possession, the Arbitrator authorized the landlord to file the Order with the Supreme Court of British Columbia to be enforced as an Order of that Court.

The parties agreed that the previous Decision and Order of Possession were not overturned in any subsequent proceedings.

The tenant submitted the current Application on August 7, 2021, outside the 2-year period. Accordingly, the tenant's claims ceased to exist before they brought the current application.

As the tenant's application was filed outside the period, I therefore dismiss the tenant's application without leave to reapply.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: December 13, 2021

Residential Tenancy Branch