



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRT, MNDCT, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- a Monetary Order for the cost of emergency repairs, pursuant to section 33; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlords, the landlords' agent, the landlord's interpreter and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties confirmed their email addresses for service of this decision and order.

Preliminary Issue- Limitation Period Expired

Both parties agree that this tenancy ended on December 31, 2018, more than two years ago.

Section 60 of the *Act* states:

- 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.

Both parties agree that two previous monetary arbitrations with the Residential Tenancy Branch have occurred, the file numbers for the previous arbitrations are located on the cover page of this decision.

The tenant filed an application for dispute resolution on December 18, 2020, shortly before the limitation period of two years ended. The tenant's application for dispute resolution sought monetary compensation stemming from the tenancy. The hearing for the above dispute occurred on April 29, 2021.

The landlord filed a different application for dispute resolution against the tenant on April 14, 2021. While this application was filed after the two-year limitation period set out in section 60 of the *Act*, pursuant to section 60(3) of the *Act*, because the landlord's application was filed before the April 29, 2021 dispute resolution hearing, the landlord's application was allowed to be heard.

I find that since the previous application filed by the landlord was filed outside the two-year limitation period (on April 14, 2021), the filing extension found in section 60(3) of the *Act* does not apply to this current application for dispute resolution. Section 60(3) of the *Act* clearly states that the extension only applies if the previous application was made **“within the applicable limitation period under this Act”**. As the previous application was not made within the two year limitation period, section 60(3) of the *Act* does not apply.

The intention of section 60(3) of the *Act* is to provide an opposing party an opportunity to make a counterclaim when the original claim is made close to the two-year limitation period. The intention of section 60(3) of the *Act* is not to indefinitely extend the two-year limitation period; which would effectively negate the functionality of section 60(1) and section 60(2) of the *Act*.

As this claim was made past the two-year limitation period, I dismiss it without leave to reapply.

In addition to my above reasons, I dismiss the tenant's claim pursuant to Rule 2.9 of the Residential Branch Rules of Procedure which states:

An applicant may not divide a claim.

I find that the tenant already filed a monetary claim against the landlord on December 18, 2020 and should have, at that time, claimed all monetary damages stemming from this tenancy. I find that the tenant is not permitted to divide their monetary claim by filing two separate monetary claims. For this reason, in addition to my reasons above, I dismiss the tenant's claims without leave to reapply.

Conclusion

The tenant's application for dispute resolution 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: June 16, 2022

Residential Tenancy Branch