



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

The Applicant filed the Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) for compensation related to the Landlord’s Notice to End the Tenancy, and recovery of the filing fee. The tenant filed the Application on December 22, 2021. The matter proceeded by way of a hearing pursuant to s. 74(2) on July 28, 2022. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The Applicant attended the telephone conference call hearing; the Respondent did not attend.

Preliminary Issue – service of the Notice of Dispute Resolution

The Tenant stated they did not provide copy of the notice of dispute resolution to the Landlord upon receiving that notice from the Residential Tenancy Branch on December 29, 2021.

The *Act* s. 59 contains the provisions for starting proceedings in a dispute resolution. Subsection (3) states: “. . .a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.”

The *Act* s. 89 gives the rules for service of the application for dispute resolution. This is by leaving a copy with the person or their agent or sending a copy via registered mail.

Additionally, the Rules of Procedure that are crafted to ensure a fair process specify the documents to be served by an applicant (here, the Tenant) to a respondent (here, the Landlord). These are: the Notice of Dispute Resolution Proceeding provided when applying; the Respondent Instructions for Dispute Resolution; a process fact sheet; and other evidence submitted by the applicant.

The Tenant did not provide a copy of the notice of dispute resolution proceeding – that document that is generated when a person applies for dispute resolution – to the Landlord either through mail or in person. Because the Landlord did not attend the hearing, and by the testimony of the Tenant, I find they did not give the required information to the landlord of this hearing date and time.

Preliminary Matter – latest time for Application for Dispute Resolution

In their Application, the Tenant set out that the tenancy start date was October 1, 2011, and the tenancy end date was September 30, 2019.

The *Act* s. 60 sets out that an application must be made within 2 years of the date the tenancy to which the matter relates ends or is assigned.

I find the Tenant made their Application *past* this two-year time period from the end of the tenancy. This end-date is verified on the Four-Month Notice to End Tenancy the Tenant provided as evidence.

For this reason, I dismiss the Tenant's Application without leave to reapply. By s. 60(2), this claim "cases to exist" because it was not made within the 2-year period.

Conclusion

I dismiss the Tenant's application for compensation, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: July 28, 2022

Residential Tenancy Branch