



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The tenant applied for compensation for a monetary loss or other money owed and recovery of the filing fee.

The tenant's father and the landlord, NS, attended, they were affirmed and initial testimony began.

I have reviewed all oral, photographic, and documentary evidence before me; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary and Procedural Matters-

At the beginning of the hearing, the tenant's father requested an adjournment of the hearing. The father stated that he was hearing impaired, and as he was away in a mine and he did not have his Bluetooth device to assist with hearing. The father said that his son, the listed tenant, was at home. The father did not explain why their son/applicant could not call into the hearing to present their own application.

I denied the request for an adjournment. The application was filed on August 7, 2022, and was completed on August 8, 2022, when the filing fee was paid. I find it unfair to the respondents to adjourn the hearing. Apart from that, the tenant had the opportunity to dial into the hearing to present evidence, and in the alternative, have another agent attend to provide evidence, as the tenant's father said they were unable to hear clearly.

In addition, the tenant's father spoke continuously through the hearing, despite my many cautions against interruptions. While the father presented they could not hear

properly, the father responded to my questions in many instances during the hearing. I placed the tenant's father on mute in order to hear from the landlord and the father was returned to the hearing when the landlord completed submissions.

The landlord also addressed preliminary matters. The landlord submitted that the application was made out of time, as the tenancy ended almost 3 years ago. The landlord said that the tenant moved out in June or July 2020.

The landlord also said they never received the tenant's application, until 2 days prior to the hearing, when it was re-directed to their new address.

Issue(s) to be Decided

Has the tenant's application been filed within the required time limit under the Act?

If so, is the tenant entitled to monetary compensation?

Background and Evidence

The tenant wrote on their application that the tenancy ended on August 7, 2020. The tenant's application was initially filed on August 7, 2022, and the application process was completed on August 8, 2022, when the filing fee was paid.

No evidence was filed to support the tenant's version of events of the end date of the tenancy, and the landlord gave affirmed testimony that the tenant vacated in June or July 2020.

Analysis

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.

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

In the case before me, I find there was disputed evidence as to when the tenancy ended. The tenant was not present to present evidence to support the date they

vacated the rental unit. I therefore prefer the affirmed testimony of the landlord at the hearing that the tenancy ended in June or July 2020 when the tenant vacated.

I find the tenant did not file their application made on August 8, 2022 within the statutory time limit and is barred from being heard.

Apart from this, I find the tenant submitted insufficient evidence that the address they used to serve the landlord was their current address when they served their application more than 2 years after the tenancy ended. The landlord indicated they had moved and a search of the Canada Post tracking system shows that the registered mail envelopes used by the tenant for service to the landlords were returned to sender.

For this reason, I also find the tenant submitted insufficient evidence that the landlords were served with the tenant's application as required.

For the reasons above, I dismiss the tenant's application, without leave to reapply.

Conclusion

The tenant's application is dismissed, without leave to reapply, as it was filed outside the statutory time limit and there was insufficient evidence that the landlords were served the tenant's application at their current address.

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(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: May 26, 2023

Residential Tenancy Branch