



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for unpaid rent and to recover the filing fee for the Application.

Only the Landlord appeared at the hearing. He gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that he served the Tenants with the Notice of Hearing by registered mail. In evidence the Landlord provided copies of the registered mail receipts. The Tenants did not appear at the hearing. Pursuant to section 90 of the Act, the Tenants are deemed served five days after mailing. I find the Tenants have been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord out of time to proceed under the *Residential Tenancy Act*?

Background and Evidence

The Landlord submitted in evidence a tenancy agreement that the parties signed on or about April 1, 2013. The Landlord testified that the tenancy ended on or about October 10, 2013. The Landlord filed this Application on November 17, 2015.

The Landlord testified that the Tenants had acknowledged they owed him rent money in two different agreements, which he entered into evidence. The Landlord testified that the Tenants still owed him rent money.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows.

I find that the *Residential Tenancy Act* (the "Act"), does not apply in this situation and I have no jurisdiction in this matter. Section 60 of the Act sets out that an application for dispute resolution must be made within two years of the date that the tenancy to which the matter relates ends. The tenancy ended on October 10, 2013, and the Landlord did not file his Application until November 17, 2015. In this situation the Landlord has applied outside of the two year limitation period.

However, the Landlord has evidence that the Tenants have acknowledged a debt owing to the Landlord and therefore, the Landlord may have other legal remedies he may pursue, for example a claim in debt in Provincial "Small Claims" Court.

The Landlord should consult with a lawyer or the Provincial Court for his next steps.

Conclusion

As the Landlord applied for dispute resolution more than two years after the tenancy ended, I find the Act has no jurisdiction in this matter.

The Landlord should seek legal advice on making a claim against the Tenants for the monetary debt owed in another forum, such as Provincial Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: June 13, 2016

Residential Tenancy Branch