



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNRT, FFT

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. A Monetary Order for the costs of emergency repairs - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. It is noted that the Landlord appeared later in the hearing and shortly after the Tenant gave evidence of service of their application. This evidence was reviewed when the Landlord appeared.

Issue(s) to be Decided

Did the Tenant make its application within the time allowed?

Background and Evidence

The Tenant submits in its application that the tenancy ended on March 13, 2020. The Tenant provides copies of text communication with the Landlord about moving out of the unit and leaving the keys in the unit for the Landlord. The Tenant confirms that they made their application on March 13, 2022. The Tenant states that they could not make an application sooner as they were unable to locate the Landlord’s address for service and as the Residential Tenancy Branch system was down on March 12, 2022 when

they first attempted to make their application. The Tenant states that as soon as they discovered the Landlord's address they made the application with the first attempt on March 12, 2022. The Tenant provides a copy of the tenancy agreement. The Tenant states that they did not have the Landlord's email address and cannot recall if they applied for substituted service. It is noted that the Tenant's application sets out an email address for the Landlord. The Tenant states that they served their application for dispute resolution, notice of hearing and evidence (the "Hearing Package") to the Landlord by registered mail on March 21, 2022.

The Landlord states that they have not resided in the country since before the tenancy ended and that they never resided at the address in the Tenant's application after the tenancy ended. The Landlord states that they did not receive the Hearing Package. The Landlord does not have a copy of the tenancy agreement provided by the Tenant. The Landlord states that the Tenant had its email address from before the tenancy started when the Landlord sent the Tenant photos of the unit from the Landlord's personal email address. The Landlord confirms that their email address is the same address as set out in the Tenant's application.

Analysis

Section 60 of the Act provides that an application for dispute resolution must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned. Section 66(1) of the Act provides that the director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59 (3) *[starting proceedings]* or 81 (4) *[decision on application for review]*. Given the Tenant's own evidence that the tenancy ended on March 13, 2020 and that they made their application on March 13, 2022, I find that the Tenant did not make its application within two years of the end of the tenancy. Further, based on the Tenant's own text evidence dated March 12, 2020 of the unit's readiness on that date for new tenants, I find on a balance of probabilities that the tenancy actually ended on March 12, 2021 and that the Tenant only texted the Landlord the next day to confirm their

completed move out of the unit and to request the return of a “full refund”.

Technological disruptions on March 12, 2022 cannot be seen as an exceptional circumstance since the Tenant’s application on this date was already a day late.

The Tenant’s copy of the tenancy agreement sets out the Landlord’s address for service and I note that this is the same address set out as the Landlord’s address in the Tenant’s application. I do not consider the inability to locate a party’s address for service as an exceptional circumstance where the Tenant’s evidence is that they had this address from the onset of the tenancy as contained in the tenancy agreement. For these reasons I find that the Tenant’s application was made outside the time allowed and that there are no exceptional circumstances that would allow an extension of the time limit. The Tenant’s application is therefore dismissed without leave to reapply.

Conclusion

The application is dismissed.

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

Dated: November 09, 2022

Residential Tenancy Branch