



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing occurred by conference call based on an Application for Dispute Resolution filed by the Landlord June 14, 2022 (the "Application"). The Landlord applied:

- To recover unpaid rent
- To recover the filing fee

The Landlord appeared at the hearing. A.K. appeared at the hearing for the Tenant.

Preliminary matter – 2-year time limit

The parties agreed the tenancy ended March 31, 2020.

Section 60 of the *Residential Tenancy Act* (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).

The Landlord acknowledged they filed the Application more than two years after the end of the tenancy.

Section 66(1) of the *Act* allows an arbitrator to extend a time limit:

66 (1) 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].

The Landlord said they filed late because they were out of the country for six months. The Landlord said they filed the Application because of an RTB Decision issued October 20, 2021. The Landlord said they were out of the country when they received the prior RTB Decision. The Landlord said they could not file the Application from out of the country because they are not familiar with filing online.

A.K. did not agree to an extension of time for the Landlord to file the Application because the tenancy issues had been ongoing since 2021.

The Landlord applied past the two-year time limit for filing the Application. I am not extending the time for filing. The prior RTB Decision was sent to the parties by email October 25, 2021. The Landlord had until March 31, 2022, to file the Application, five months from when they received the prior RTB Decision. The Landlord did not provide documentary evidence showing they were out of the country when they received the RTB Decision and until June 14, 2022. Even accepting the Landlord was out of the country, they should have filed the Application online or had someone file the Application on their behalf given they were out of the country for six months, a lengthy period of time. This tenancy ended March 31, 2020, and the matters should have concluded within two years after the tenancy ended. There is no compelling reason to extend the two-year time limit.

The Application was filed outside the two-year time limit and therefore is dismissed without leave to re-apply.

Conclusion

The Application is dismissed without leave to re-apply.

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: April 27, 2023

Residential Tenancy Branch