

## **REVIEW CONSIDERATION**

### **Introduction**

By application received on April 26, 2010, the tenant seeks a Review Hearing on a Decision dated April 20, 2010 following a Direct Request proceeding. A Direct Request proceeding is conducted on the written submissions of the landlord without appearances, a proceeding that may be granted where a landlord has issued a Notice to End Tenancy for unpaid rent.

In order to qualify for a Direct Request, the landlord must submit proof of service of the Notice to End Tenancy and the Notice of Direct Request proceeding, among other documents. If the application succeeds, the landlord may be issued with an Order of Possession in support of the Notice to End Tenancy and a Monetary Order for the unpaid rent.

A tenant may apply for a Review Hearing of a Direct Request proceeding if the applicant submits evidence suggesting the decision may have been based on fraudulent evidence.

### **Issue(s) to be Decided**

This application requires a decision on whether the tenant's application raises sufficient doubt as to the veracity of the evidence given on the original application to warrant a Review Hearing.

### **Background and Evidence**

In the present application, the tenant alleges she did, in fact, pay \$545 of the \$650 rent and had a credit for services rendered to the landlord for \$105.

The tenant further alleges:

1. She did not receive the Notice to End Tenancy, said to have been served by posting on her door on April 2, 2010;
2. She offered the landlord the rent in cash on April 5, 2010 but the landlord demanded a money order which she delivered to him on April 12, 2010 (supported by receipt for a money order dated April 11, 2010);
3. The landlord made application after she had made payment, claimed and received a Monetary Order for the full month's rent.

## **Analysis**

Section 79 of the *Act* provides for the opportunity of a Review Hearing for reasons including a fraudulent representation as alleged in the subject application.

A Direct Request proceeding provides a mechanism to expedite routine applications from landlords in cases where the tenant has not paid rent and the right to regain possession is clearly granted by the statute.

Given that this procedure involves no automatic participation by tenants, it is essential that the landlord submissions be complete and true to ensure the adherence to principles of natural justice and administrative fairness.

While I do not necessarily make a finding of fraud on the part of the landlord, I do find that the tenant's application raises sufficient doubt, particularly with respect to the amount claimed, and that if the Dispute Resolution Officer had had the full evidence before her, the decision may have differed.

## **Conclusion**

I therefore find that a Review Hearing is warranted. I order that the Decision and Orders of April 20, 2010 be suspended until a review hearing has been completed.

Within three days of receiving this decision granting a review hearing, the tenant must serve the landlord with a copy of this decision and the enclosed notice of the time and date of the review hearing.

Failure to attend the hearing at the scheduled time, with all relevant documents and/or witnesses, will result in a decision being made on the basis of any information before the dispute resolution officer and the evidence of the party in attendance at the hearing.

**Date of Decision:** April 28, 2010