

REVIEW DECISION

The Tenant has applied for a review of the Decision and Orders of a Dispute Resolution Officer dated May 3, 2010. The Decision and Orders granted an order of possession and monetary orders to the Landlord.

The Tenant states two grounds in the Application for Review. The first ground is that she was not served with the Notice to End Tenancy or the Notice of Direct Request proceeding. I dismiss this portion of the Review Application, as the Decision and Orders were granted through the Direct Request process. There is no hearing held in this process, rather it is a proceeding done by written application only, and the Dispute Resolution Officer was satisfied that the Tenant was served in accordance with the Act with the Notice to End Tenancy and the Notice of the Direct Request proceedings, by mailing the documents to the Tenant by registered mail. *Evidence submission is not required of the tenant.*

The second ground of Review is that the Decision and Order were obtained by fraud. The Tenant alleges that she attempted to contact the Landlord's agent numerous times to sign a subsidy application, but the Landlord's agent did not facilitate this. The Landlord is a Housing Society and the Tenant pays a subsidized rent based on her income.

I do not find that this is conclusive evidence of fraud on behalf of the Landlord. There is simply not enough information or facts to clearly establish the Landlord was fraudulent.

However, I do find that the Decision and Orders *may* have been different if the Dispute Resolution Officer had this information been before her while making her determinations.

Therefore, I allow the Application for a Review on this basis.

Having accepted the request for a review under section 79, I will not consider all the evidence with respect to the grounds submitted for review in this Application. Those are issues to be dealt with at the hearing in this matter, as described below.

Having granted the Tenant's request for a review, section 82 of the *Act* provides the following:

Review of director's decision or order

82 (1) Unless the director dismisses or refuses to consider an application for a review under section 81, the director must review the decision or order.

(2) The director may conduct a review

(a) based solely on the record of the original dispute resolution proceeding and the written submissions of the parties, if any,

(b) by reconvening the original hearing, or

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

I order that a new participatory hearing be conducted at which point the merits of the circumstances in the tenancy, including the allegations raised in this Application for Review, can be addressed by both parties.

Therefore, I order that the Decision and Orders dated May 3, 2010, in this matter **be suspended** until such time that a new hearing is conducted and a decision is reached.

I order that this hearing be held by telephone conference call and it be scheduled for the date and time shown in the attached Notice of Hearing.

Pursuant to section 81(4), the Tenant must serve upon the Landlord a copy of this Review Decision and the attached Notice of Hearing within **three (3) days** of receiving this Review Decision.

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.

Dated: May 17, 2010