



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

Introduction

On September 29, 2011 a decision and orders were granted to the landlord in response to his application for an order of possession and a monetary order for unpaid rent. The tenant has applied for a review of this decision.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of the decision. The application must contain reasons to support one or more of the grounds for review:

1. A party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control.
2. A party has new and relevant evidence that was not available at the time of the original hearing.
3. A party has evidence that the director's decision or order was obtained by fraud.

The applicant relies on section 79(2) (c) of the *Residential Tenancy Act*, which provides that the director may grant leave for review if a party has evidence that the arbitrator's decision or order was obtained by fraud.

Issues

Did the applicant for review file this application in a timely manner? Does the tenant have evidence that the arbitrator's decision and order were obtained by fraud?

Facts and Analysis

This is an application for review filed on November 07, 2011 by the tenant for the review of a Decision dated September 29, 2011 and received by the tenant on October 28, 2011. The tenant applied for a review nine days after having received the decision. The *Act* specifically provides a two day time-frame in which a party can apply for review with respect to an application of this nature.

Under section 66(1) of the Act, an extension of time to apply for review can only be granted where the applicant has established that there are exceptional circumstances. I find that the applicant has failed to apply for an extension of time and prove that exceptional circumstances prevented the tenant from filing for review in a timely manner. Accordingly, I dismiss this application for review. The application has not been considered on its merits.

Decision

The decision made on September 29, 2011, stands.

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: November 14, 2011.

Residential Tenancy Branch