



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

APPLICATION for REVIEW

Dispute Codes: CNR FF OLC

Introduction

The Applicant/Landlord applies for review of the decision on the basis of new and relevant evidence.

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.

Issues

Has the Landlord supplied new and relevant evidence that was not available at the time of the original hearing?

Facts and Analysis

The application contains information under Reasons Number C2, new and relevant evidence. This information indicates that the definition of "written demand for payment" is not specified in the Act, was not readily available during the hearing and that the DRO made the decision without this definition. The Landlord further submits that the Act does not identify who must serve the demand for payment and that the utility company is an agent of the Landlord capable of satisfying the requirements of the Act for service of such demand.

The evidence supplied by the Landlord is not new evidence but is an argument against the findings of the DRO and the operation of the Act as it applied to the facts of the dispute. Accordingly, I dismiss the Landlord's application for review consideration.

Decision

The application is dismissed and the decision made on November 30, 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: December 06, 2011.

Residential Tenancy Branch