



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF OPC

Introduction

On November 04, 2011, a hearing was conducted to resolve a dispute between these two parties. The landlord had applied for an order of possession and was successful in her application. 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 applied for an extension of time to file the application for review.

The applicant also relies on sections 79(2)(b) of the *Residential Tenancy Act* (the "Act"). Section 79(2) (b) provides that the director may grant leave for review if a party has new and relevant evidence that was not available at the time of the original hearing.

Issues

Does the tenant have exceptional circumstances that prevented her from applying for a review within the two day time frame? Does the tenant have new and relevant evidence that was not available at the time of the hearing?

Facts and Analysis

This is an application for review filed on November 23, 2011 by the tenant for a review of the decision dated November 04, 2011 and received by the applicant for review on

November 10, 2011. The applicant applied for an extension of time to file the application for review. The Act specifically provides a 2 day time-frame in which a party can apply for review with respect to an application of this nature.

In this case, the applicant applied approximately 13 days after having received the decision. The applicant stated that the reason she was unable to apply for review within the required time frame was that she is employed as a school teacher and works the same hours as the Kootenai Community Centre from whom she wanted to seek advice.

Under section 66 of the *Residential Tenancy Act*, an extension of time to apply for review can only be granted where the applicant has established that there are exceptional circumstances. In this matter, the word **exceptional** implies that the reason(s) for failing to apply for a Review in the time required are very strong and compelling.

On reflection of the reason advanced by the tenant, I find that the tenant has failed to prove that *exceptional circumstances* prevented her from filing for Review within the legislated time limit and accordingly dismiss the application. The application has not been considered on its merits.

Therefore, **I dismiss the application for Review and confirm the original decision dated November 04, 2011.**

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 02, 2011.

Residential Tenancy Branch