



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNSD O

Introduction

On December 15, 2011, a hearing was conducted to resolve a dispute between these two parties. The tenant had applied for the return of her security deposit. The landlord did not attend the hearing. The Dispute Resolution Officer granted the tenant's application. The landlord 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)(a) and (c) of the *Residential Tenancy Act* (the "Act").

Issues

Does the applicant have exceptional circumstances that prevented him from applying for a review within the fifteen day time frame? Was the applicant unable to attend the hearing because of circumstances that could not be anticipated and were beyond his control? Does the applicant have evidence that the arbitrator's decision was obtained by fraud?

Facts and Analysis

The Act specifically provides a fifteen 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 for a review 23 days after having received the decision. The applicant stated that the reason he was unable to apply for review within the required time frame is "*I was not provided with notice of a hearing*".

Under section 66(1) of the Act, an extension of time can **only** be granted where the applicant has established that there are **exceptional circumstances** (Sec. 66). 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 reasons advanced by the applicant, I find that the applicant has failed to prove that *exceptional circumstances* prevented him from filing for Review within the legislated time limit and accordingly dismiss the application. The application has not been considered on its merits.

Decision

The decision made on December 15, 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: January 20, 2012.

Residential Tenancy Branch