



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

### Introduction

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 following 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.

In the present case, the applicant has requested a review of the original decision on the basis of the second ground set forth above.

### Issues

Is the applicant entitled to a review of the original decision on second grounds?

### Facts and Analysis

The original dispute in this case dealt with the landlord's direct request for an order of possession and a monetary order pursuant to a 10 Day Notice to End Tenancy for unpaid rent. The landlord was granted the monetary order for unpaid rent but was denied the order of possession because the original dispute resolution officer was not satisfied that the 10 day Notice had been properly served. The Proof of Service indicated that the 10 Day Notice had been served personally on the tenant by leaving it with an individual named "Kenneth Michaud" but the original dispute resolution officer noted that "Kenneth Michaud" was not listed on the tenancy agreement as a tenant and that there was no evidence to show that this individual resided at the rental unit.

The applicant has applied for review on the basis of the second ground. In its application the landlord states as follows:

*"Notice of 10 day notice to end tenancy was served to Kenny whom live at the property. Letter from tenant proof Kenny can sign on tenant behalf to receive 10 day notice." (sic)*

Outside of this statement the landlord has submitted no further evidence. In other words, the landlord has not submitted any new and relevant evidence that was not available at the time of the original proceeding.

### Decision

Based on the above, I hereby dismiss the landlord's application as disclosing insufficient evidence of the second ground for review.

The decision made on December 21, 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*.

---