



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** FF MNDC MNR OPR

### **Introduction**

On March 05, 2012, a hearing was conducted to resolve a dispute between these two parties. The landlord had applied for an order of possession and for a monetary order for unpaid rent and damages. The Dispute Resolution Officer granted the landlord's application. The tenant is applying 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 sections 79(2)(b) of the *Residential Tenancy Act* (the "Act"). The tenant also requests an extension of time to apply for Review.

### **Issues**

Does the tenant have exceptional circumstances that prevented him from applying for a review within the two day time frame? Does the tenant have new and relevant evidence that could change the decision?

### **Facts and Analysis**

The tenant received the decision on March 11, 2012 in the mail and was served the order of possession on March 12, 2012. Section 80 of the *Residential Tenancy Act* establishes time limits to apply for a review. In this matter, as the director's decision relates to an order of possession under section 55 of the *Residential Tenancy Act*, the applicant was required to apply for a review within two (2) days after receiving the decision.

The tenant's application for Review has been filed late at 10 days after the tenant received the decision. The tenant has made a request for an extension of time to apply for Review. The tenant indicates that he did not apply for a review in time because he was served the order of possession on March 12, 2012 and was told to vacate the premises on that same day. The tenant does not explain why he was not able to apply for a review within the time frame of two days.

Upon receipt of the decision on March 11, 2012, the tenant was informed that the landlord was granted an order of possession and a monetary order against him.

Despite knowing that the landlord had been granted an order of possession and a monetary order against him, the tenant failed to make application for review in a timely manner. 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**. 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 tenant, I find that the tenant has failed to prove that *exceptional circumstances* prevented him from filing for Review within the legislated time limit.

Therefore, **I dismiss the application for Review and confirm the original decision dated March 05, 2012.** The application has not been considered on its merits.

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: March 23, 2012.

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Residential Tenancy Branch