



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: ERP FF MNDC O OLC PSF RP

### Introduction

On March 30, 2012 Dispute Resolution Officer (DRO) XXXXXX provided a decision on the tenant's Application for Dispute Resolution seeking a monetary order; an order to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement; make repairs and emergency repairs and provide services required by law. The hearing had been conducted on March 30, 2012.

That decision granted the tenant a monetary award of \$918.75. The tenant submits he received a copy of the decision on March 1, 2012. The tenant did not request an extension of time to apply for Review Consideration.

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 tenant submits in his Application for Review Consideration that he has new and relevant evidence that was not available at the time of the original hearing.

### Issues

It must first be determined if the tenant has submitted his Application for Review Consideration within the legislated time frames required for reviews.

If the tenant has submitted his Application within the required time frames it must be decided whether the tenant is entitled to have the decision and order of March 30, 2012 suspended with a new hearing granted because he has provided sufficient evidence to establish that he has new and relevant evidence that was not available at the time of the original hearing.

### Facts and Analysis

Section 80 of the *Act* stipulates that a party must make an Application for Review Consideration of a decision or order within 5 days after a copy of the decision or order is received by the party, if the decision relates to repairs or maintenance under Section 32 of the *Act* or within 15 days for other matters.

From the tenant's submission I accept the tenant received the decision on April 5, 2012 and that he filed his Application for Review Consideration on April 10, 2012. As such, I find the tenant has filed his Application within the required legislated deadlines.

The tenant submits that he has received a letter from a customer suspending him from work that proves he was kept from earning a living due to the problem that the landlord could have avoided. He further states that the customer was out of town and couldn't get the letter to the tenant in time.

The tenant states in his Application that there is a lot of incorrect evidence/statements in the decision that may have occurred because of a language barrier and when corrected can affect the decision and that he also has evidence the landlord still refuses to follow the advice of the exterminator.

In support of his Application the tenant has provided a copy of a typewritten letter from a person indicating that the tenant had been doing work on the writer's house during the month of March 2012 and that tenant informed him on March 14, 2012 that he was dealing with bedbugs in his apartment.

The writer goes on to say that he requested the tenant not work around his property until such time as the problem was resolved and that the tenant returned to work on March 28, 2012.

In the DRO XXXXX's decision he writes: "I discount the letter from the employer, Mr. J.R., referred to by the tenant during the hearing. That evidence was not provided to the landlords. They have not had an opportunity to test its authenticity or to prepare evidence in rebuttal."

From this statement and the letter that was submitted with this Application for Review Consideration, I accept that this evidence is new and relevant. I accept also that the tenant was unable to obtain this letter in a timely manner prior to the previous hearing.

### Decision

For the reasons noted above, I find the tenant has established sufficient grounds for a new hearing on these matters. Details of the new hearing are included with the tenant's copy of this decision. The tenant **must serve the landlords within 3 days** of receiving this decision with a copy of this decision and the Notice of Hearing documents.

The decision made on March 30, 2012 is suspended until such time as the new hearing has been completed and a decision is given to the parties, in accordance with Section 81(3).

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: April 17, 2012.

---

Residential Tenancy Branch