



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

APPLICATION for REVIEW

Dispute Codes: CNQ CNR DRI

Introduction

This is an application by the Tenant for a review of a decision and order rendered by a Dispute Resolution Officer (DRO) on March 27, 2012 with respect to an application for Dispute Resolution filed by the Tenant. The Tenant applied to cancel a 2 Month Notice to End Tenancy (on the grounds that she no longer qualified for subsidized housing) and she also applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Dispute Resolution Officer found that there were grounds to enforce the 10 Day Notice to End Tenancy because the Tenant had paid no rent for March 2012 and she granted the Landlord an Order of Possession on that basis. The Dispute Resolution Officer also concluded that as the tenancy would end as a result of the enforceable 10 Day Notice to End Tenancy, it was unnecessary to determine if there were also grounds to enforce the 2 Month Notice. In other words, the DRO did not need to make any findings as to whether the Tenant qualified for subsidized housing or not.

Issues

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 applied for a Review on the 2nd ground.

Facts and Analysis

Section 80 of the Act says that a Party must make an application for review of a decision or order of the director ***within 2 days*** after a copy of the decision or order is received by the Party if the decision or order relates to a notice to end tenancy under s. 46 or an order of possession under s. 55 of the Act.

The Tenant's written submissions on her application for review indicate that on March 31, 2012, the Landlord served her with a copy of the Decision and Order made on March 27, 2012 by posting it to (or putting it through a mail slot of) the rental unit door. Pursuant to s. 90 of the Act, the Tenant was deemed to have received these documents three days later or on April 3, 2012. Consequently, the Tenant had until April 5, 2012 at the latest to apply for a Review of the Decision and Order, however, the Tenant did not file her application for Review until April 11, 2012. For this reason the Tenant's application is dismissed without leave to reapply.

Even if the Tenant had applied within the required time limits, I find that there is no basis to set aside the Decision and Order. The Tenant's application for Review contains few submissions and lists only some income documents that she alleges are new and relevant evidence. However none of the evidence is relevant; the tenancy ended not because of the dispute over how much rent should be paid but instead because the Tenant paid **no** rent for March 2012. Consequently, while the Tenant's income evidence might be relevant to her application to cancel the 2 Month Notice, it is not relevant to her application to cancel the 10 Day Notice which was the Notice relied on by the Landlord to end the tenancy.

Decision

The Tenant's application for Review is dismissed without leave to apply due to her failure to apply within the time limits set out under s. 80 of the Act. Consequently, the Decision and Order made on March 27, 2012 remain in force and effect. 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