



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNR OPR

Introduction

The Decision/Order under review is a decision on the Landlord's application for an Order of Possession and Monetary Order for unpaid rent and utilities. The Hearing was convened on May 1, 2012 and a Decision and Orders were issued on May 1, 2012. The Tenant states that he received the Decision and Orders, by mail, on May 25, 2012.

Preliminary Matter

Division 2, Section 79(2) of the *Residential Tenancy Act* provides that 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.

The Landlords apply for review on the first and third grounds set out above.

Issues

Was the Landlord unable to attend the reconvened Hearing because of circumstances that were beyond the Landlord's control?

Does the Landlord have evidence that the Decision or Order was obtained by fraud?

Facts and Analysis

In her Application for Review Consideration, the Landlord indicates that she did not receive the Notice of Adjourned Hearing in time for her to attend the Hearing on May 11,

2012. The Landlord provided a copy of the Notice along with a copy of the envelope in which it was contained.

The Notice of Adjourned Hearing is dated May 8, 2012. The envelope is post marked May 10, 2012. Section 90 of the Act provides that service by mail is deemed to be received on the 5th day after it is mailed. The reconvened Hearing occurred on the day after the Notice was mailed.

I am satisfied that the Landlord was unable to attend the reconvened Hearing due to circumstances that were beyond her control. Therefore, the Landlord's Application for Review Consideration is granted on the first ground for review and it is not necessary to consider the other ground as set out above.

Notices of Reconvened Hearing are enclosed with this decision for the Landlord to serve upon the Tenant. The Landlord has **three days** to serve the Tenant with a copy of this Decision and a Notice of Reconvened Hearing in accordance with section 81(4) of the Act which provides:

(4) Within 3 days of receiving a decision to proceed with a review, or within a different period specified by the director, the applicant must give the other party a copy of the decision and of any order giving effect to the decision.

[my emphasis added]

The Landlord must serve the Tenant with these documents in a manner that complies with Section 89 of the Act.

I order that the Decision and Orders dated May 11, 2012, in this matter **be suspended** until such time that a new Hearing is conducted and a decision is reached.

Conclusion

The Landlords' Application for Review Consideration is allowed.

Two copies of a Notice of Hearing accompany this Decision. Within three days of receipt of this Decision, the Landlord must serve the Tenant with a copy of this Decision and the Notice of Hearing in a manner that complies with Section 89 of the Act.

I order that the Decision and Orders dated May 11, 2012, in this matter **be suspended** until such time that a new Hearing is conducted and a decision is reached.

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: May 29, 2012

Residential Tenancy Branch