



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Review Consideration Decision

Dispute Codes: FF 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. The Hearing was convened on May 1, 2012 and a Decision and Orders were issued on May 1, 2012.

In his Application for Review Consideration, the Tenant indicates that he received the Decision and Orders, by mail, on May 25, 2012.

Division 2, Section 72(2) of the *Manufactured Home Park 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 Tenant applies for review on the all of the grounds set out above.

Preliminary Matter

Section 73 of the Act requires a party to make an application for review of a decision or order within 2 days of receipt if the decision or order relates to an order of possession and within 15 days of receipt of a monetary order. A copy of Section 73 of the Act accompanies this Decision.

In this case, the Tenant did not apply for review until 12 days after receiving the decision and orders. Therefore, I find that the Tenant did not file his Application within the required time frame with respect to the Order of Possession. The Tenant did not apply for an extension of time and therefore I will not consider the Tenant's application

relating to the Order of Possession. **The Order of Possession issued May 1, 2012, is hereby confirmed.**

The Tenant filed his Application for Review Consideration within 15 days of receipt of the Monetary Order and therefore I will consider the Tenant's application relating to the Monetary Order.

Issues

Was the Tenant unable to attend the Hearing because of circumstances that were beyond his control?

Does the Tenant have new and relevant evidence that was not available at the time of the Hearing?

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

Facts and Analysis

With respect to the first ground for review, in his Application for Review Consideration, the Tenant indicates that he was, "... away with work and dealing with seperation that the applicant was aware that I would not be available." Reproduced as written.

Regarding the second ground for review, the Tenant indicates that, "Agreement has been made previous to decision. Pad has never been habitable or suitable for occupation. Witnesses can be supplied as to conversation of agreement. Landlord not owed amount statement which is value of home." Reproduced as written.

Regarding the third ground for review, the Tenant states, "Illegal occupancy of real properties to proffit [Landlord] and personally who was also aware of services and monies recieved. Refused to allow showing of home to buyer." Reproduced as written.

The Tenant provided a copy of the Decision in evidence but did not provide any other documentary evidence to support his Application for Review Consideration.

Section 72(3) of the Act requires an applicant to provide full particulars of the grounds for review and also to provide evidence on which the applicant intends to rely. A copy of Section 72 of the Act accompanies this Decision.

Section 74(1)(b) of the Act provides that an application may be dismissed if the applicant does not give full particulars of the issues submitted for review or all of the evidence on which the applicant intends to rely; does not disclose sufficient evidence of a ground for the review; or discloses no basis on which, even if the applicant's submissions were accepted, the decision or order should be set aside. A copy of Section 74 of the Act accompanies this Decision.

In this case, service of the Notice of Hearing documents was found to be effected by registered mail. I find that the Tenant did not provide clear and full particulars with respect to the first ground for review. For example, he did not indicate whether he received the Notice of Hearing documents and did not sign into the Hearing because he was not "available"; or whether he did not receive the Notice of Hearing documents because he was not "available". In either event, I find that the Tenant has failed to provide sufficient evidence that he could not attend for circumstances that were beyond his control. If a tenant or a landlord is going to be unavailable for service, they are expected to provide the other party with contact information. If the tenant was not available to attend the Hearing because he was working, he could have appointed an agent to attend on his behalf or requested an adjournment.

The Monetary Order was issued for unpaid site rent, which had accrued over a period of more than three years. In his Application for Review, the Tenant alleges that "**services and monies**" were received by the Landlord and acknowledged by the owner, but no documentary evidence of such payment towards rent was provided. Section 20 of the Act requires a tenant to pay rent when it is due unless he has a right under the Act to deduct all or a portion of the rent. The Tenant did not provide sufficient evidence that he had any right under the Act to make any deductions from monthly rent due to the Landlord.

Overall, I find that the Application for Review Consideration does not disclose sufficient evidence of a ground for review, nor does the Application disclose any basis upon which, even if the submissions in the Application were accepted, the Decision or Monetary Order of the Dispute Resolution Officer should be set aside or varied.

Conclusion

The Tenant's Application for Review Consideration is **dismissed**.

The Order of Possession and Monetary Order issued May 1, 2012, are hereby confirmed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: June 11, 2012

Residential Tenancy Branch