



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

### Introduction

On August 3, 2012, 2012 Dispute Resolution Officer (DRO) XXXXXX provided a decision on the cross Applications for Dispute Resolution. The landlord sought an order of possession for the non-payment of rent and a monetary order and the tenant applied for more time to apply and to cancel a notice to end tenancy for unpaid rent. The hearing had been conducted on August 3, 2012.

That decision granted an order of possession and a monetary order to the landlord. The tenant has submitted an Application for Review Consideration for the portion of the decision that relates to the landlord's Application for Dispute Resolution. 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 of August 3, 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 within 2 days after a copy of the decision is received by the party, if the decision relates to, among other things, a landlord's notice to end tenancy for non-payment of rent.

From the decision of August 3, 2012 the issues before the DRO were related to a 10 Day Notice to End Tenancy for Unpaid Rent. As such, the tenant was allowed 2 days to file his Application for Review Consideration.

From the tenant's submission he indicates that he received the August 3, 2012 decision on August 3, 2012 and filed his Application for Review Consideration with the Residential Tenancy Branch on August 7, 2012 (the first business day after receipt of the decision). I find the tenant has filed their Application for Review Consideration within the required timelines.

The tenant lists, in his Application for Review Consideration, the following as new and relevant evidence:

1. Evidence of security deposit paid by Social Service (check);
2. A key witness, who signed 3 months lease, was out of country and a separate verbal agreement with that acting manager;
3. Additional fund paid in amount of \$379, at date moved, in was late June 20-.

The tenant does not provide any explanation as to why the evidence was not available at the time of the hearing, with the possible exception of his "key witness". The tenant does submit the key witness was out of the country but does not say when the witness was out of the country.

In relation to all three points raised in the tenant's Application for Review Consideration the tenant does not explain how any of the items are relevant to the landlord's Application for Dispute Resolution or to the decision that was provided in relation to that Application.

Further, despite the tenant's claims he has this additional evidence he did not provide any of it with his Application for Review Consideration, or in the case of his key witness any statements or evidence that the witness might have.

### Decision

For the reasons noted above, I find the tenant has failed to establish that he has new or relevant evidence that was not available at the time of the original hearing and I dismiss his Application for Review Consideration

The decision made on August 3, 2012 stands.

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: August 16, 2012.

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Residential Tenancy Branch