

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

Introduction

This is an application by the tenant for a review of a decision rendered by a Dispute Resolution Officer on August 9, 2012 with respect to an application for dispute resolution filed by the Landlord for an Order of Possession and a Monetary Order for unpaid rent. The Tenant did not attend the hearing via conference call and the Landlord was granted an Order of Possession to take effect 2 days after service of it on the Tenant as well as a Monetary Order for unpaid rent for July 2012 and for a loss of rental income for August 2012.

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 more time to file her application for Review and for a review on the 1st and 2nd grounds.

Facts and Analysis

The Tenant's review application indicates that on August 16, 2012, she received a copy of the Decision dated August 9, 2012 which was served to her in person. The Tenant filed her application for a Review of the Decision on August 23, 2012.

Section 80(a)(iii) of the Act says that a party must make an application for a review of a decision or order that relates to a Order of Possession for the Landlord under s. 55 of the Act **within 2 days** of receiving it. Section 66(1) of the Act says that the director may extend a time limit under the Act but only in exceptional circumstances. The Tenant's review application contains no reason as to why the Tenant was unable to make an application for review with respect to the Order of Possession within the 2 day time limit set out under s. 80 (a) of the Act and for that reason, her application for a review of the decision to issue the Order of Possession is dismissed without leave to reapply.

The Tenant's application for review states that she called into the conference call using the participant code on her Notice but was unable to connect to the hearing. As a

result, the Tenant said she was unable to present copies of “outstanding invoice/payments from previous employer (anticipated towards rent).” The Tenant did not provide any further written submissions and the only documentary evidence she included was a copy of a 24 Hour Notice of entry issued on August 20, 2012 and a copy of the Notice of Hearing for the August 9th hearing.

As I understand the Tenant’s argument, she is not disputing that rent was unpaid for July and August 2012 as found by the Dispute Resolution Officer but rather that she was owed monies from a previous employer and anticipated that she would pay the arrears with those funds. I find that this evidence would not have been relevant at the hearing and therefore is not now a reason that would warrant granting a re-hearing of the Landlord’s application for rent arrears.

In other words, I find that even if the Tenant was unable to connect to the conference call on August 9th as she claimed (and she provided no corroborating evidence of that assertion), there are no grounds to grant her application for a review of the Monetary Order given that she has provided no relevant reason or evidence in her review application to show that the outcome of that hearing would have been any different had she attended.

Decision

The Tenant’s application for a review of the Order of Possession is dismissed on the ground that she did not comply with the time limit set out under s. 80(a)(iii) of the Act. The balance of the Tenant’s review application is dismissed pursuant to s. 81(1)(iii) of the Act on the ground that it discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied. Consequently, the Decision and Orders made on August 9, 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: August 30, 2012.

Residential Tenancy Branch