



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC OPB OPC

Introduction

On August 9, 2012, 2012 Dispute Resolution Officer (DRO) XXXXX provided a decision on the landlord's Application for Dispute Resolution seeking to an order of possession and a monetary order. The hearing had been conducted on August 8, 2012.

That decision granted the landlord an order of possession effective September 30, 2012 and dismissed the landlord's monetary claim. The tenant did not request an extension of time to apply for Review Consideration.

Division 2, Section 72(2) under the *Manufactured Home Park Tenancy Act (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 evidence that the director's decision was obtained by fraud.

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 order of August 9, 2012 suspended with a new hearing granted because he has provided sufficient evidence to establish that the landlord obtained the decision based on fraud.

Facts and Analysis

Section 73 of the *Act* stipulates that a party must make an Application for Review Consideration of a decision or order within 5 days after a copy of the order is received by the party, if the order relates to a notice to end a tenancy agreement for cause.

From the decision of August 9, 2012 the issues before the DRO were related to the landlord's Application for an order of possession based on a 1 Month Notice to End Tenancy for Cause. As such, I find the order the tenant is currently requesting a review on allowed the tenant 5 days to file his Application for Review Consideration.

From the tenant's submission he indicates that he received the August 9, 2012 order on August 12, 2012 and filed his Application for Review Consideration with the Residential Tenancy Branch on September 20, 2012 (38 days after receipt of the decision and order). I find the tenant has failed to file his Application for Review Consideration within the required timelines.

I also find the tenant has failed to request an extension of time to submit his Application for Review Consideration or provide any evidence or testimony of exceptional circumstances that would have prevented him from filing his Application for Review Consideration.

Even if the tenant had submitted his Application for Review Consideration within the required timelines or had sufficient grounds for an extension of time to submit his Application, I note the order itself was based solely on the tenant's failure to submit an Application for Dispute Resolution seeking to cancel a 1 Month Notice to End Tenancy for Cause that had been issued to the tenant on June 1, 2012.

The tenant had submitted the landlord obtained the order based on fraud in that she had not inspected the fireplace herself and had relied on third party hearsay evidence to establish the fireplace was unsafe. This evidence may have been relevant if the tenant had applied to cancel the 1 Month Notice within 10 days of receiving it on June 4, 2012 but since he did not do so, he cannot now rely on it as evidence of fraud.

Decision

For the reasons noted above, I dismiss the tenant's Application for Review Consideration

The order made on August 9, 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 *Manufactured Home Park Tenancy Act*.

Dated: August 09, 2012.

Residential Tenancy Branch