



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNR MNSD OPR

Introduction

On August 22, 2012, a hearing was conducted to resolve a dispute between these two parties. The landlord had applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant did not attend the hearing. The arbitrator granted the landlord's application. The tenant has applied for a review of this decision.

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 applicant applied for an extension of time to file this application for review. The applicant also relies on sections 79(2)(a)(b) and (c) of the *Residential Tenancy Act* (the "Act").

Issues

Does the tenant have exceptional circumstances that prevented her from applying for a review within the two day time frame? Was the tenant unable to attend the hearing because of circumstances that could not be anticipated and were beyond her control? Does the tenant have new and relevant evidence that could change the decision? Does the tenant have evidence that the arbitrator's decision was obtained by fraud?

Facts and Analysis

The *Act* specifically provides a two day time-frame in which a party can apply for review with respect to an application of this nature. The applicant states in her application that

she received the order on August 23, 2012 and received the decision “*mid week of August 27*”

In this case, the applicant applied for a review 12 days after having received the order and six days after having received the decision. The applicant stated that the reason she was unable to apply for review within the required time frame was that she thought that she had 15 days to apply for a review of the decision.

Under section 66(1) of the Act, an extension of time can **only** be granted where the applicant has established that there are **exceptional circumstances** (Sec. 66).

In this matter, the word *exceptional* implies that the reason(s) for failing to apply for a Review in the time required are very strong and compelling. On reflection of the reasons advanced by the tenant, I find that the tenant has failed to prove that *exceptional circumstances* prevented her from filing for Review within the legislated time limit and accordingly I dismiss the application. The application has not been considered on its merits.

Decision

The decision made on August 22, 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: September 21, 2012.

Residential Tenancy Branch