



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: CNR FF MNDC MT

Introduction

On September 18, 2012 Dispute Resolution Officer (DRO) XXXXXX provided a decision on the tenant's Application for Dispute Resolution seeking to cancel a 1 Month Notice to End Tenancy for Cause. The hearing had been conducted on September 18, 2012.

That decision dismissed the tenant's Application and provided the landlord with an order of possession. 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 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 decision of September 18, 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 80 of the *Act* stipulates that a party must make an Application for Review Consideration of a decision or order within 2 days after a copy of the decision is received by the party, if the decision relates to an order of possession for the landlord.

From the decision of September 18, 2012 the issues before the DRO were related to the tenant's Application to cancel a notice to end tenancy and the landlord's verbal request for an order of possession. As such, I find the decision the tenant is currently requesting a review on relates to an order of possession for the landlord and as such the tenant was allowed 2 days to file their Application for Review Consideration.

From the tenant's submission he indicates that he received the September 18, 2012 decision on September 21, 2012 and filed their Application for Review Consideration with the Residential Tenancy Branch on September 26, 2012 (5 days after receipt of the decision and order). I find the tenant has failed filed his Application for Review Consideration within the required timelines.

Even if I were to consider the ground for review, the tenant submits the landlord's agent AS testified that he had not received the tenant's Application but there is no mention in the decision that either party had not received any evidence as such I can determine only that whether or not the agent AS received the tenant's Application did not factor into the decision granted by DRO XXXXXXXX.

Decision

Based on the above, I find the tenant has failed to submit his Application for Review Consideration within the required time frames and that he has failed to establish any ground for Review. Therefore, I dismiss the tenant's Application for Review Consideration.

The decision made on September 18, 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: October 01, 2012.

Residential Tenancy Branch