



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: CNC LAT LRE OLC

Introduction

On August 23, 2012 Dispute Resolution Officer (DRO) XXXXX 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 August 23, 2012.

That decision dismissed the tenant's Application and granted the landlord 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 new and relevant evidence that was not available at the time of the original hearing and 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 and order of August 23, 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 and 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 or order is received by the party, if the decision relates to an order of possession for a landlord.

From the decision of August 23, 2012 the issue in the decision was related an order of possession for the landlord. As such, I find the decision and order the tenant is currently requesting a review on allowed 2 days for the tenant to file his Application for Review Consideration.

From the tenant's submission he indicates that he received the August 23, 2012 decision on September 11, 2012 and the order on September 12, 2012 and filed his Application for Review Consideration with the Residential Tenancy Branch on September 13, 2012 (1 day after receipt of the decision and order). Based on the tenant's submission, I find the tenant has filed his Application for Review Consideration within the required timelines.

In the tenant's Application for Review Consideration he states that that he has new and relevant evidence from "other tenants". The tenant has submitted typewritten statements from a friend; two current tenants from the same residential property.

The statement from the tenant's friend discusses her and the tenant meeting a former tenant who told them that the landlord had asked the former tenant to sign a complaint about the tenant. The tenant did not provide a statement from this former tenant.

One of the current other tenants submitted in their typewritten statement that there are other tenants who also cause disturbances and that he believes this tenant is being targeted. This tenant had submitted a typewritten statement in the tenant's evidence for the original hearing.

The other current tenant submits that she was asked to sign a letter of complaint against the tenant and if she did the landlord would not continue eviction proceedings against her. I note there is no complaint in the file that the landlord had relied upon at the original hearing from this current tenant.

The tenant has provided no explanation as to why these statements and/or evidence were not available at the time of the hearing. While I accept that the chance meeting with the former tenant occurred after the hearing I note the tenant did not provide a written statement from that tenant but rather a statement from his friend, who overheard the conversation. I find that without a written statement from the former tenant, the tenant has not submitted new evidence with sufficient substance to grant a new hearing.

The tenant also submits that the landlord obtained the decision and order by fraud. He states in his Application for Review Consideration that 99% of the landlord's information was false. However, the tenant has provided, as evidence of this fraud, the typewritten statements as noted above.

Upon review of the original hearing file I find that none of the material submitted in these typewritten statements speaks to any of the issues and complaints considered by the DRO in the original hearing and therefore do not provide any evidence of fraud on the part of the landlord to obtain the decision and/or order.

Decision

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

The decision made on August 23, 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 04, 2012.

Residential Tenancy Branch