



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

Introduction

On September 25, 2012 Dispute Resolution Officer (DRO) XXXXX provided a decision on cross Applications for Dispute Resolution. The tenant sought more time to apply and to cancel a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord sought an order of possession and a monetary order for unpaid rent. The hearing had been conducted on September 25, 2012.

That decision dismissed the tenant's Application and granted the landlord an order of possession and a monetary order. 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 and order of September 25, 2012 suspended with a new hearing granted because he has provided sufficient evidence to establish that the landlord obtained the decision and order 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 a landlord's notice to end tenancy for non-payment of rent.

From the decision of September 25, 2012 the issues before the DRO were a landlord's notice to end tenancy for non-payment of rent. As such, I find the decision and order the tenant is currently requesting a review on 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 25, 2012 decision and order on September 20, 2012 and filed his Application for Review Consideration with the Residential Tenancy Branch on October 1, 2012 (3 days after receipt of the decision and order).

While the tenant submitted his Application for Review Consideration on the third day after receipt of the decision and order, I note that the 2nd day would have fallen on a weekend when the Residential Tenancy Branch was closed and as such the tenant was entitled to submit the Application on the 1st available business. For these reasons, I find the tenant has filed his Application for Review Consideration within the required timelines.

The tenant indicates that the landlord's submissions regarding outstanding rent for the period prior to September 2010 were false and that he did not owe the landlord any amounts for this period. He also states that the landlord's claim that rent was \$1,370.00 were not true because he was paying \$1,600.00 per month.

From the decision and the evidence on file from the original hearing, I find the tenant agreed to the amount of rent and utilities owed and/or paid for the period January 2010 to August 31, 2012 and the amount of rent and utilities still owed to the landlord.

Even with that agreement the decision granted the landlord a monetary order in an amount that was less than what the tenant agreed he owed the landlord based on rent of \$1,370.00.

From the tenant's submission I find these matters were all considered by the DRO at the time of the hearing and the tenant is trying to reargue his position in regard the amount of rent owed to the landlord. A Review Consideration is not an opportunity to do so. I also find the tenant has failed to provide any evidence to establish the landlord obtained the decision and/or order based on fraud.

Decision

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

The decision made on September 25, 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