



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNSD OPE

Introduction

On October 10, 2012 Dispute Resolution Officer (DRO) XXXXX provided a decision on the landlord's Application for Dispute Resolution seeking an order of possession as the tenants' employment with the landlord had ended and a monetary order for loss of revenue. The hearing had been conducted on October 10, 2012.

That decision granted the landlord an order of possession and a monetary order in the amount of \$1,652.00. The tenants 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 tenants submit in their Application for Review Consideration that they have new and relevant evidence that was not available at the time of the original hearing.

Issues

It must first be determined if the tenants have submitted their Application for Review Consideration within the legislated time frames required for reviews.

If the tenants have submitted their Application within the required time frames it must be decided whether the tenants are entitled to have the decision and orders of October 10, 2012 suspended with a new hearing granted because they have provided sufficient evidence to establish that they have new and relevant evidence that was not available at the time of the original hearing.

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 5 days after a copy of the decision or order is received by the party, if the decision relates to a notice to end tenancy for any reason other than non-payment of rent.

From the decision of October 10, 2012 the issues before the DRO were related to the landlord's notice to end tenancy for ending of employment. As such, I find the decision and order the tenants are currently requesting a review allowed 5 days to file their Application for Review Consideration.

From the tenants' submission they indicate that they received the October 10, 2012 decision and order on October 10, 2012 and filed their Application for Review Consideration with the Residential Tenancy Branch on October 11, 2012 (1 day after receipt of the decision and order). I find the tenants have filed their Application for Review Consideration within the required timelines.

The tenants submit in their Application for Review Consideration that another unit is available in the residential property and the landlord's had stated that they needed the rental unit for the new manager. The tenants submit they have found a posting on Kijiji for another rental unit in the building that is available immediately and that this had not been listed so they could not present it at the hearing.

As this posting, from the tenant's own submission, was posted on October 8, 2012 and the hearing was on October 10, 2012 the tenants could have raised the issue during the hearing but the decision does not show that the tenants attended the hearing.

Further, the tenants had not disputed the Notice to End Tenancy issued by the landlord on July 31, 2012 and as explained in the decision the result is that the tenants were deemed to have accepted the end of the tenancy. As such the grounds for granting the order of possession were based on the tenant's failure to dispute the notice and not the actual reasons for ending the tenancy.

The tenants have also submitted in their Application for Review Consideration that they are not sure how the monetary amount was derived. A Review Consideration is not a suitable avenue to address a need for clarification. Should the tenants not understand how the amount owed to the landlord was determined they should speak to an Information Officer at the Residential Tenancy Branch to request a clarification.

Decision

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

The decision made on October 10, 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 16, 2012.

Residential Tenancy Branch