



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) XXXXXX 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. I note that the tenants had also applied for a Review Consideration on October 11, 2012 and decision on that Review Consideration was issued on October 16, 2012.

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 evidence that the landlord obtained the decision by fraud.

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 12, 2012 (2 days after receipt of the decision and order). I find the tenants have filed their Application for Review Consideration within the required timelines.

Section 79(1) of the *Act* states a party to a dispute resolution proceeding may apply for a review of a decision, however Section 79(7) states that a party to a dispute resolution proceeding may make an application under this section only once in respect of the proceedings.

As the tenants had submitted an Application for Review Consideration on October 11, 2012 and that Application has already been decided, I find that the tenant's second Application for Review Consideration must be disallowed as it is contrary to the restrictions of Section 79(7).

Decision

Based on the 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 17, 2012.

Residential Tenancy Branch