



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

Introduction

On November 15, 2012, 2012 Arbitrator XXXXX provided a documentary record of a settlement agreement between the parties on the landlord's Application for Dispute Resolution seeking to an order of possession and monetary order. The hearing had been conducted on November 15, 2012.

That record included the provision of an order of possession effective December 31, 2012. The tenants did not request an extension of time to apply for Review Consideration.

Division 2, Section 79(2) under the *Residential Tenancy Act* (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

If the tenants have submitted their Application within the required time frames it must be decided whether the tenants are entitled to have the recorded settlement of November 15, 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

As the parties reached a settlement agreement and the document provided to the parties was a recording of that settlement only as per Section 63 of the *Act*. The agreement was reached by both parties independent of any findings or rulings on the part of the Arbitrator.

There is no provision in the *Act* allowing a party who has agreed to a settlement to seek a review of that agreement. Section 79 allows parties to a dispute resolution proceeding to apply for a review of the director's decision or order. I find the settlement agreement was not a decision made by the director.

Decision

For the reasons noted above I dismiss the tenants' Application for Review Consideration.

The agreement made on November 15, 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: December 07, 2012.

Residential Tenancy Branch