



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: CNR FF

Introduction

On February 04, 2013, a hearing was conducted to resolve a dispute between these two parties. The tenant had applied to cancel the notice to end tenancy for nonpayment of rent. The Arbitrator upheld the notice to end tenancy and granted the landlord an order of possession. The tenant has applied for a review of this decision.

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 applicant relies on sections 79(2)(b) and (c) of the *Residential Tenancy Act* (the "Act"). Section 79(2) (b) provides that the director may grant leave for review if a party has new and relevant evidence that was not available at the time of the original hearing. Section 79(2)(c) provides that the director may grant leave for review if a party has evidence that the arbitrator's decision or order was obtained by fraud.

Issues

Did the applicant for review file this application in a timely manner? Does the tenant have new and relevant evidence that was not available at the time of the hearing? Does the tenant have evidence that the Arbitrator's decision was obtained by fraud?

Facts and Analysis

This is an application for review filed on February 26, 2013 by the tenant for the review of a Decision dated February 04, 2013 and received by the tenant on February 09, 2013. The tenant applied for a review 17 days after having received the decision. The

Act specifically provides a two day time-frame in which a party can apply for review with respect to an application of this nature.

Under section 66(1) of the Act, an extension of time to apply for review can only be granted where the applicant has established that there are exceptional circumstances. I find that the applicant has failed to apply for an extension of time and prove that exceptional circumstances prevented the tenant from filing for review in a timely manner. Accordingly, I dismiss this application for review. The application has not been considered on its merits.

Decision

The decision made on February 04, 2013 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: March 05, 2013

Residential Tenancy Branch