



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

Introduction

On March 8, 2013 Arbitrator XXXXX provided a decision on the landlord's Application for Dispute Resolution seeking to an order of possession and a monetary order. The hearing had been conducted on March 8, 2013.

That decision granted the landlord an order of possession and a monetary order in the amount of \$3,165.00. The tenant had failed to submit page 2 of the Application for Review Consideration indicating if she was seeking an extension of time to apply for Review Consideration.

However, I requested that an Information Officer contact the tenant and ask her to resubmit page 2. The Information Officer reported back to me that she had contacted the tenant and asked to re-submit page 2 but nothing was received from the tenant despite additional calls from the Information Officer to find out if the tenant had re-submitted it.

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 her Application for Review Consideration that that she has new and relevant evidence that was not available at the time of the original hearing; and she has evidence that the director's decision was obtained by fraud.

Issues

It must first be determined if the tenant has submitted her Application for Review Consideration within the legislated time frames required for reviews or if she is entitled to an extension to do so.

If the tenant has submitted her Application within the required time frames it must be decided whether she is entitled to have the decision of March 8, 2013 suspended with a new hearing granted because she has provided sufficient evidence to establish that she has new and relevant evidence that was not available at the time of the original hearing; or she has evidence the tenant obtained the decision 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 March 8, 2013 the issues before the Arbitrator were related to the landlord's 10 Day Notice to End Tenancy for Unpaid Rent. As such, I find the decision and order the tenant is requesting a review on allowed 2 days to file her Application for Review Consideration.

From the tenant's submission she indicates that she received the March 8, 2013 decision and order on March 18, 2013 and filed her Application for Review Consideration with the Residential Tenancy Branch on April 3, 2013 (16 days after receipt of the decision and order). I find the tenant has failed filed her Application for Review Consideration within the required timelines.

In addition, I have reviewed her written submission and despite her evidence that she paid rent for the month of January 2013, she has provided no evidence to establish that there was no rent due to the landlord when he issued the 10 Day Notice on February 12, 2013 or that the amount of rental arrears he claimed were incorrect and as such, I find that even if the tenant had submitted her Application with the required timelines there would have been no impact on the March 8, 2013 decision.

Decision

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

The decision made on March 8, 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: April 10, 2013