



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: OPR

Introduction

This is an application by the tenant for a review of a decision and order of the director dated April 23, 2013.

The tenant applied for a review on the ground that she has new and relevant evidence that was not available at the time of the original hearing.

Issues

Has the tenant provided sufficient evidence to establish that she has new and relevant evidence that was not available at the time of the original hearing?

Facts and Analysis

Original Hearing and Decision

On April 23, 2013, the hearing was convened to deal with the landlord's application for an order of possession pursuant to a notice to end tenancy for unpaid rent.

In the decision dated April 23, 2013, the arbitrator weighed the evidence and found that the notice to end tenancy for unpaid rent was valid. The arbitrator found that while the tenant did not receive the notice to end tenancy when it was served by the landlord on March 7, 2013, the tenant was aware on March 18, 2013, that the landlord was seeking to end the tenancy for unpaid rent, and the tenant received a copy of the notice at the very latest by March 28, 2013. The tenant failed to pay the outstanding rent within the required time frame, and the landlord was entitled to an order of possession pursuant to the notice.

Review Applicant's Submissions

In the application for review, the tenant submitted that she has a doctor's note; letters of support from a social worker, a reservation worker and an advocate worker; and a note

from Employment Insurance describing the tenant's status. The evidence would show that the tenant was not able to understand the full hearing process as she was depressed and under duress to pay the full amount of outstanding rent.

Analysis on Review

The tenant was deemed served with the notice to end tenancy March 28, 2013. The tenant received the landlord's application and evidence prior to the hearing and was aware that the landlord sought to end the tenancy on the basis of unpaid rent.

The tenant could have obtained the letters of support prior to the hearing. The tenant could have submitted all of this evidence prior to the hearing, or she could have requested an adjournment to submit that evidence, but she did not do so.

I find that the additional evidence indicated in the tenant's application for review was not new or unavailable at the time of the original hearing. The tenant has therefore failed to provide sufficient evidence to show that she had new and relevant evidence that was not available at the time of the hearing.

Further, the tenant did not provide any evidence that would have changed the outcome of the decision and order. The tenant did not pay the rent for four months, and it was open to the landlord to seek to end the tenancy on the basis of unpaid rent. The tenant did not pay the outstanding rent, and the landlord was granted an order of possession.

Decision

I dismiss the application for review and confirm the original decision and order of April 23, 2013.

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: May 3, 2013

Residential Tenancy Branch