



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: CNR FF MT

Introduction

This Application was filed by the tenant on June 17, 2013, seeking a Review Consideration of the Decision and Order dated May 31, 2013 and the decision of which was received by mail on June 12, 2013 and the order received on June 13, 2013 with a note that the order was “on door June 10, 2013”. The Decision and Orders were related to a mutually settled agreement pursuant to section 63 of the *Act*.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of a 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 has applied on the third ground.

The tenant has also requested an extension of time to apply for a Review Consideration.

Facts and Analysis

The Application for Review Consideration states that an applicant **must** submit their application **within 2 days** of the date they receive the decision or order when the decision or order relates to an order of possession. The tenant writes in his application that he received the decision on June 12, 2013, which was a Wednesday. The tenant also writes in his application that the order was received June 13, 2013, however, in the area titled “How You Received It” the tenant writes “on door June 10, 2013”, which was a Monday. Therefore, the deemed service date for posting to the door of three days under the *Act* does not apply in this case as the actual date the order was received

based on the tenant's own submission was on his door June 10, 2013. Therefore, the last day the tenant was entitled to apply for a review consideration on the order received Monday, June 10, 2013, would have been on Wednesday, June 12, 2013 and the last day to dispute the decision received by mail on Wednesday, June 12, 2013 was Friday, June 14, 2013. The tenant did not apply for a Review Consideration until Monday, June 17, 2013.

In the tenant's request for an extension of time to apply for a Review Consideration, the tenant writes:

"Regarding Decision only. Order is in time as today is the 2nd day fell on the weekend for the order. I did not request review of teh decision as up to last night, the Landlord and I were still attempting to resolve the issue.."

[reproduced as written]

The application clearly indicates that "time extensions may be granted only in exceptional circumstances, such as a natural disaster or a medical emergency." The tenant failed to submit any evidence of why the tenant was unable to file his application on time other than to allege that the parties were "still attempting to resolve the issue". Based on the above, I find the tenant provided insufficient evidence to support an extension of time to file for a Review Consideration.

Decision

Based on the above and on a balance of probabilities, I find the tenant's Application for a Review Consideration must be dismissed. As a result, I do not find it necessary to consider the merits of the third ground given that the application of the tenant was submitted beyond the permitted timeframe under section 80 of the *Act*.

I note, however, that the decision was based on the mutually settled agreement of the parties pursuant to section 63 of the *Act*. Therefore, the opportunity for the tenant to dispute testimony and to ultimately determine if he would agree to the mutual agreement was during the hearing.

For these reasons stated above, I **dismiss** the Application of the tenant.

The decision and orders made on May 31, 2013, **stand and remain in full force and effect**.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 20, 2013

Residential Tenancy Branch