



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** FF MNDC MNR MNSD O OPB OPR

### **Introduction**

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 applies for review on the second ground for review.

The Tenant also applies for an extension of time to apply for review. Section 80 of the Act addresses **Time limit to apply for a review**, and provides in part:

80 A party must make an application for review of a decision or order of the director within whichever of the following periods applies:

- (a) within 2 days after a copy of the decision or order is received by the party, if the decision or order relates to
- (iii) an order of possession under Section 55.

In her application for review, the Tenant indicates that she received the order on August 1, 2013. Pursuant to the above legislative provisions, the application for review was required to be submitted within 2 days after August 1, 2013. Weekends and statutory holidays are not included in the 2 days. Therefore, I find that the Tenant filed her Application for Review Consideration on time and does not require an extension of time.

### **Issues**

Does the Tenant have **new and relevant** evidence that was not available at the time of the original hearing?

## **Facts and Analysis**

The Decision and Orders under review were made pursuant to cross applications. The Tenant sought to cancel a Notice to End Tenancy for Unpaid Rent and an Order that the Landlord comply with the Act. The Landlord sought an Order of Possession; a Monetary Order for unpaid rent; and to apply the security deposit towards the Landlord's monetary award.

The parties mutually agreed to settle the issues in dispute and the Arbitrator recorded their agreement in the form of a Decision, pursuant to the provisions of Section 63 of the Act. The Arbitrator also provided the Landlord with a Monetary Order and an Order of Possession in support of the settlement agreement. The Monetary Order was to be "served on the Tenant only if the Tenant does not comply with the payment agreement outlined in [the] decision". Likewise, the Order of Possession was to be "served on the Tenant only if the Tenant does not comply with the payment agreement outlined in [the] decision".

In support of her application for review, the Tenant provided a copy of the Order of Possession and the Decision. In the Section of the Application entitled "New and Relevant Evidence", the Tenant wrote:

"I have proof of loss of income. On August 1, 2013, a new hearing was heard and I am awaiting The Results. By Mail. Many Reasons. I have a witness who was not heard. I have proof of a Doctor and medication order changes."

[reproduced as written]

Section 79(3)(c) of the Act provides that an application for review consideration "must be accompanied by full particulars of the grounds for review and the evidence on which the applicant intends to rely".

Providing full particulars and sufficient evidence is paramount as section 81(1)(b) provides that an application may be dismissed or refused where:

(b) the application

- (i) does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely,
- (ii) does not disclose sufficient evidence of a ground for the review,

(iii) discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied, or

In this case, I find that the application does not disclose sufficient particulars of the issues or evidence of a ground for review. The Tenant does not indicate whether or not she complied with the terms of the settlement agreement. The Tenant did not describe how the evidence is “new” or “relevant” or why it was not available at the time of the Hearing.

### **Conclusion**

The Tenant’s Application for Review Consideration is dismissed. The original Decision and Orders dated June 13, 2013, are confirmed.

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: August 08, 2013

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Residential Tenancy Branch