



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD

### Introduction

On June 18, 2013 Arbitrator XXXXXX provided a decision on the tenant's Application for Dispute Resolution seeking to a monetary order. The hearings had been conducted on May 8, 2013 and June 13, 2013. That decision granted the tenant a monetary order in the amount of \$2,175.00. The tenant did not request an extension of time to apply for Review Consideration.

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 his Application for Review Consideration that he has new and relevant evidence that was not available at the time of the original hearing.

### Issues

It must first be determined if the tenant has submitted his Application for Review Consideration within the legislated time frames required for reviews.

If the tenant has submitted his Application within the required time frames it must be decided whether the he is entitled to have the decision of June 18, 2013 suspended with a new hearing granted because he has provided sufficient evidence to establish that he has new and relevant evidence that was not available at the time of the original hearing.

### 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 15 days after a copy of the decision or order is received by the party, if the decision does not relate to a matter of possession of the

rental unit; a notice to end tenancy; withholding consent to sublet; repairs or maintenance or services and facilities.

From the decision of June 18, 2013 the issues before the Arbitrator were related to the tenant's monetary claim against the landlord. As such, I find the decision and order the tenant is requesting a review on allowed 15 days to file their Application for Review Consideration.

From the tenant's submission he received the June 18, 2013 decision on June 28, 2013 and filed his Application for Review Consideration with the Residential Tenancy Branch on July 15, 2013 (15 business days after receipt of the decision). I find the tenant has filed his Application for Review Consideration within the required timelines.

The tenant submits that he did not know that it would be necessary to prove the value of goods. The tenant does not provide any indication if this evidence was already existing and he just failed to submit it at that time due to his lack of understanding of what evidence to submit or if the evidence is new since the hearing.

The tenant submits several points in relation to his Application for Review Consideration as follows:

1. The tenant indicates he is dissatisfied with the decision regarding the part of his claim for the compensation for a rent reduction for the month of January 2013. From this portion of his submission the tenant appears to be rearguing his claim. The Application for Review Consideration is not an opportunity to reargue a claim. I find that this section his Application for Review Consideration provides no evidence of new and relevant evidence;
2. The tenant, response to the decisions indication that he had not provided evidence of his attempts to advertise the rental unit has provided ads from Craigslist and a testimonial from a roommate. The tenant has provided no detail as to why this evidence was not submitted to the original hearing; other than the overall reason that he was not aware he needed to provide such evidence. When a party files an Application for Dispute Resolution they are required to provide whatever evidence they feel is necessary to establish their position and in the case of a monetary claim to establish their entitlement to any amount of money for compensation related a tenancy. The burden rests with that party to provide evidence that will establish not only the circumstances that led to the claim but also the value of that claim. The Residential Tenancy Branch publishes several Fact Sheets including one entitled "Preparing for Dispute Resolution" that specifically discusses the gathering of evidence. In regard to receipts the Fact Sheet states: "*Receipts and estimates*: Receipts that are used to support monetary claims must be clear and readable. Examples: a bill for a plumber who did emergency repairs, or an estimate for the cost of replacing a carpet." As a result, I find the tenant cannot submit evidence, now that he had at the time of the original hearing and just didn't think it was relevant to submit as evidence to be considered as new evidence;

3. The tenant submits that no proof was provided by the landlord regarding repairs or mitigation in regard to roof repairs but does not indicate how this is new evidence. This again appears to be an attempt to reargue his claim or the landlord's related claim. I find this point does not establish the tenant has new and relevant evidence;
4. The tenant explains why his testimony may have appeared contradictory in regard to questions related to the roof and several leaks. Again it appears the tenant is attempting to reargue his claim. As such, I find the tenant has failed to establish this as new and relevant evidence; and
5. The tenant states he is submitting receipts for some of the damaged furniture and that due to time constraints to file his Application for Review Consideration he was not able to provide them all. The tenant does not explain why these receipts were not submitted prior to the original hearing other than is overall submission that he was unaware he should have submitted them. See my reasoning under point number 2 above. I find the tenant has failed to provide evidence that this is new and relevant evidence.

### Decision

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

The decision made on June 18, 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: July 22, 2013