



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: FF MNR MNSD OPR

Introduction

The Decision/Order under review is a Decision on the Landlord's Application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; to apply the security deposit towards its monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord's application was granted in its entirety and the Landlord was provided an Order of Possession effective two days after service of the Order upon the Tenant and a Monetary Order in the amount of \$500.00.

Division 2, Section 79(2) of the *Residential Tenancy Act* provides that 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 following 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 set out above.

The Tenant also applies for an extension of time to apply for this Review Consideration. The Tenant's Application for Review Consideration indicates that she received the Decision and Order of July 2, 2013, in person. The Tenant filed her Application on July 4, 2013, which is within the 2 day time limit. Therefore, this portion of her Application is not necessary.

Issues

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

Facts and Analysis

In her Application for Review Consideration, the Tenant indicates:

“Hydro bills not given. Paying other apt bills.”

(reproduced as written)

In support of her application for review, the Tenant provided the following documents:

- copies of two letters to the Landlord, dated May 30 and June 21, 2013;
- copies of the Order of Possession and Monetary Order dated June 25, 2013; and
- a copy of a three page instructional letter from BC Hydro to the Tenant, dated June 13, 2013, explaining how to conduct a breaker test.

New and Relevant Evidence

Leave may be granted on this basis if the applicant can prove that:

- he or she has **evidence that was not available at the time of the original arbitration hearing**;
- the evidence is **new**;
- the evidence is **relevant to the matter which is before the Dispute Resolution Officer**;
- the evidence is credible, and
- the evidence **would have had a material effect on the decision** of the Dispute Resolution Officer

Only when the applicant has evidence which meets **all five criteria** will a review be granted on this ground.

I dismiss the Tenant’s Application for Review because the evidence provided by the Tenant was available at the time of the original arbitration hearing and is neither new nor relevant to the matter that was before the Dispute Resolution Officer at the Hearing.

In the Decision dated June 25, 2013, the Arbitrator found that the Tenant owed rent to the Landlord and that the Notice to End Tenancy for Unpaid Rent was a valid Notice. The Application for Review process is not an opportunity to re-argue the case.

The original Decision and Orders dated June 25, 2013, are therefore confirmed.

Conclusion

The Tenant's Application for Review Consideration is dismissed.

The original Decision and Orders dated June 25, 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: July 12, 2013

Residential Tenancy Branch