



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: OPR

On July 2, 2013 a dispute resolution hearing via the direct request process was conducted to resolve dispute between these two parties. The Landlord had applied for an order of possession for unpaid rent. The Landlord's Application was granted. The Tenant has applied for a review of this decision.

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 applicant has applied for an extension of time to apply for a review. If granted, the applicant has selected for their grounds for review that there is evidence that the decision was obtained by fraud. Although the applicant has selected this reason for review the applicant has provided details for all 3 grounds. As such, I will review all 3 grounds for review if an extension is granted.

The applicant's request for an extension of time to make the application must be addressed prior to any other consideration. Section 80 of the Act speaks to time limits to apply for a review. Pursuant to the particular circumstances of the decision and order, statutory time limits are 2, 5, or 15 days "after a copy of the decision or order is received by the party." In this case, the tenant documents that the decision was received on July 10, 2013 "on door." The tenant's application was filed on July 15, 2013, which is 5 days after the tenant's receipt of the decision. The applicants reason for an extension is "didn't get off door, don't use that door."

Section 66 of the Residential Tenancy Act states:

The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59(3) [starting proceedings] or 81(4) [decision on application for review].

Residential Tenancy Policy Guideline #36 speaks to “Extending a Time Period” and provides in part:

The word “exceptional” means that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend that time limit. The word “exceptional” implies that the reason for failing to do something at the time required is very strong and compelling. Further as one court noted, a “reason” without any force of persuasion is merely an excuse. Thus, the party putting forward said “reason” must have some persuasive evidence to support the truthfulness of what is said.

I find that the reasons provided for the late filing of the tenant's application for review do not meet the exceptional circumstances required by section 66 of the Act to extend a time limit. I also note that the tenant's details state that she received the decision on July 2, 2013 on the door, but states in her reason for an extension “didn't get off door, don't use that door” is conflicting. I hereby deny the tenant's request for an extension of time to apply for review. The application has therefore not been considered on its merits, and the original decision dated July 2, 2013 is 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 24, 2013

Residential Tenancy Branch