



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Introduction

On June 25, 2013, a hearing was conducted after the landlord filed an application for Dispute Resolution. The landlord had applied for an Order of Possession and a Monetary Order. The landlord attended the hearing however the tenant did not attend and an Order of Possession was issued to the landlord in the absence of the tenant.

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.

Issues

The applicant relies on sections 79(2)(a) and (c) of the *Residential Tenancy Act*. That the party was unable to attend the hearing because of circumstances that could not be anticipated and were beyond the party's control. The party has evidence that the Arbitrator's decision or order was obtained by fraud.

Facts and Analysis

The decision is dated June 25, 2013. The tenants have submitted that they received a copy of the decision on July 05, by mail and a copy of the Order on July 10 by a Bailiff. Section 80(a) (ii) of the *Residential Tenancy Act* states:

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*
- (ii) a notice to end a tenancy under section 46*
[landlord's notice: non-payment of rent],

The tenants have submitted that they received the Decision on July 05, 2013 but did not file their application for a review of that decision until July 12, 2013. As the tenants have therefore filed their application for a Review consideration of this decision late; I am unable to consider the tenants' application as it was not filed within two days of receiving the Decision.

Decision

The tenants' application for Review consideration is dismissed

The decision made on June 25, 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

Residential Tenancy Branch