



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNSD OPC

Decision: Leave for Review Denied

Original Decision and Order dated July 26, 2013 confirmed

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.

REVIEW DECISION

This is an application for review filed on August 8, 2013 by the tenant for the review of a Decision and Order dated July 26, 2013 and received according to the applicants for review on August 7, 2013. The applicants applied for an extension of time to file the application for review. The Act specifically provides a 2 day time-frame from receiving the decision/order in which a party can apply for review with respect an order of

possession. In this instance, the applicants applied 1 day after having received the decision and order. The applicants are within the timeline and do not require an extension; as a result I dismiss this portion of application as it is not required.

The applicants have also applied on the grounds that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control. The applicant has stated on their application that they are legally blind and that the landlord verbally told them of the wrong hearing date. The tenants have not submitted any evidence to support their position. In addition the tenants have not submitted any evidence that would dispute the landlords' claims as made during the original hearing.

Section 81 of the Act clearly addresses the issue before me.

81 (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:

(a) the issue raised by the application can be dealt with by a correction, clarification or otherwise under section 78 *[correction or clarification of decisions or orders]*;

(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

(iv) is frivolous or an abuse of process;

(c) the applicant fails to pursue the application diligently or does not follow an order made in the course of the review.

Based on the above I dismiss the tenants' application.

The decision and order made on July 26, 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: August 13, 2013

Residential Tenancy Branch