



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

On July 18, 2013 a Direct Request Proceeding was conducted after receiving an application for this process from the landlord. The Landlord had applied for a Monetary Order for unpaid rent and an Order of Possession due to unpaid rent. The Arbitrator granted an Order of Possession and a Monetary Order in favour of the landlord. The tenant has applied for a review of this Decision and Order.

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) (c) of the *Residential Tenancy Act*. The party has evidence that the Arbitrator's decision or order was obtained by fraud. The applicant also requests an extension of time to apply for this review.

Facts and Analysis

The decision is dated July 18, 2013. The tenant has submitted that they received a copy of the decision on July 24, 2013, by mail and a copy of the Order on July 29, 2013 by hand. 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 tenant has submitted that they received the Decision on July 24, 2013 and the Order on July 29, 2013 but did not file their application for a review of that decision until August 01, 2013. The tenant has requested more time to submit this application for review consideration and has stated “I was unable to submit on time because of accident on Hwy 1/Mackenzie” (produced as written). I have no evidence from the tenant to show that the tenant was involved in an accident which would have prevented the tenant filing his application on time.

The tenant has not shown any exceptional circumstances why he filed this application late in accordance with s. 66 of the Act which states:

66 (1) 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]*.

Consequently, I am unable to consider the tenant’s application as it was not filed within two days of receiving the Decision or Order.

Decision

The tenant’s application for Review consideration is dismissed

The decision made on July 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: August 06, 2013

Residential Tenancy Branch