



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

On August 13, 2013, a hearing was conducted after the landlord filed an application for an Order of Possession and for a Monetary Order for unpaid rent. The tenant did not appear at the hearing and 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 applicants rely on sections 79(2)(a) and (c) of the *Residential Tenancy Act* (the "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 August 13, 2013. The tenant has submitted that they received the Decision on August 18, 2013 and the Orders on August 19, 2013. 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 did not file their application for a review of that Decision and Orders until August 23, 2013. The tenants have not requested more time to submit this application for review consideration or shown any exceptional circumstances why they 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 tenants' application for review consideration is dismissed

The decision made on August 13, 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 29, 2013

Residential Tenancy Branch