



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF O OLC

### 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.

The Tenant has applied for seeking an extension of time to make his application for review consideration on the grounds that a party has new and relevant evidence that was not available at the time of the original hearing.

### Issues

1. Should the Tenant be granted more time to file an application for review?

### Facts and Analysis

Section 80(a) of the Act stipulates that an application for review consideration must be filed within two (2) days upon receipt of the decision "or" order if the decision grants an Order of Possession.

In this case the Tenant was required to file his application for review consideration no later than August 27, 2013. He did not file his application until September 9, 2013.

In support of his request for an extension to file his application the Tenant indicates that he was on vacation until August 25<sup>th</sup>, 2013 and that he received the August 13, 2013, decision upon his return on August 25, 2013.

Section 66 of the *Residential Tenancy Act* allows for an extension to a time limit established by the *Act* but only in **exceptional** circumstance [emphasis added].

*Residential Tenancy Policy Guideline # 36* provides the word “exceptional” implies that the reason for failing to do something at the required time is very strong and compelling. Furthermore, 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. An ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend that time limit.

Upon review of the evidence before me I find the reasons given by the Tenant, on why he did not apply within the prescribed timeframes, do not constitute exceptional circumstances. I make this finding in part because his reasons relate only to his return from vacation on August 25, 2013. There is no evidence before me that would indicate he had exceptional circumstance between August 25<sup>th</sup> and September 09<sup>th</sup>, 2013, that would have prevented him from filing his application sooner. Accordingly, I find that I cannot accept his application to cancel the notice to end tenancy.

### Decision

I HEREBY DISMISS the Tenant's application for review consideration, pursuant to section 80 of the Act.

The Decision and Order issued on August 13, 2013 stand.

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: September 11, 2013

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Residential Tenancy Branch