



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

### Introduction

This review consideration decision is in response to an application for review consideration by the landlord pursuant to section 79 of the *Residential Tenancy Act* (the "Act"). Specifically, the landlord is requesting a review consideration of the original decision of August 27, 2013 issued by another Arbitrator.

The landlord made an application for review consideration on the ground that she has new and relevant evidence that was not available at the time of the hearing.

### Issues

Does the landlord have new and relevant evidence that was not available at the time of the original hearing?

Has the landlord filed her application for review in the required time frame?

### Facts and Analysis

#### *Original Hearing and Decision*

In the Decision dated August 27, 2013, issued as a result of a hearing on the same date on the landlord's application for dispute resolution for an order of possession for the rental unit based upon a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") and for monetary compensation, another Arbitrator dismissed the landlord's application.

#### *Landlord's/Applicant's Submissions*

In her application for review consideration, the landlord submitted that the other Arbitrator claimed that he had not received the landlord's evidence at the original hearing and further, that she received confirmation from the RTB that they received her faxed evidence on August 20<sup>th</sup>.

## Analysis on Review

Section 80(a) (ii) of the Residential Tenancy Act states that a party applying for a review of a Decision must make the application for review within 2 days after receiving the Decision or Order if it relates to a notice to end a tenancy under section 46. Section 46 refers a 10 Day Notice due to unpaid rent. It is important to note that the landlord's Notice related to unpaid utilities, which may be treated as unpaid rent under this section and as listed in the Notice.

In the case before me, the landlord stated in her application for review consideration that she received the Decision on September 10, 2013, and therefore, as the Decision related to a 10 Day Notice issued to the tenant by the landlord, the landlord was required to file her application by September 12, 2013. The landlord's application was filed on September 20, 2013 and she did not ask for an extension of time to file her application for review consideration.

### Decision

Due to the above I find that the landlord did not file her application for review consideration within the required time frame and I therefore dismiss the landlord's application for review.

I must note that contrary to the submissions in the landlord's application for review consideration, the evidence the landlord referred to in this application was in fact received and placed in the hearing file, available to the original Arbitrator for the August 27, 2013, hearing. I further note that in his Decision of August 27, 2013, the Arbitrator makes no mention that he had not received the landlord's evidence. The Decision made on August 27, 2013, is confirmed.

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 26, 2013