



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: CNR FF MNDC MNR

### Introduction

On October 1, 2013 Arbitrator XXXXX recorded a settlement agreement in response to the tenant's Application for Dispute Resolution seeking compensation. The hearing had been conducted on October 1, 2013.

That agreement recorded the tenant would not have to pay rent for the months of August and September 2013 and the landlord would pay the tenant \$1,550.00 in 4 installments. The landlord did not request an extension of time to apply for Review Consideration.

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 landlord submits in his Application for Review Consideration that he has new and relevant evidence that was not available at the time of the original hearing; and he has evidence that the director's decision was obtained by fraud.

### Issues

It must first be determined if the landlord has submitted his Application for Review Consideration within the legislated time frames required for reviews.

If the landlord has submitted his Application within the required time frames it must be decided whether he is entitled to have the settlement agreement of October 1, 2013 suspended with a new hearing granted because he has provided sufficient evidence to

establish that he has new and relevant evidence that was not available at the time of the original hearing; or he has evidence the tenant obtained the decision based on fraud.

### Facts and Analysis

Section 80 of the *Act* stipulates that a party must make an Application for Review Consideration of a decision or order within 15 days after a copy of the decision or order is received by the party, if the decision does not relate to a matter of possession of the rental unit; a notice to end tenancy; withholding consent to sublet; repairs or maintenance or services and facilities.

From the settlement agreement of October 1, 2013 the issues before the Arbitrator were related to the tenant's claim for damages. As such, I find the agreement the landlord is requesting a review on allowed 15 days to file his Application for Review Consideration.

From the landlord's submission he received the October 1, 2013 record of settlement on October 3, 2013 and filed his Application for Review Consideration with the Residential Tenancy Branch on the same day. I find the landlord has filed his Application for Review Consideration within the required timelines.

Section 63 of the *Act* allows for parties to a dispute in a tenancy the opportunity to settle their dispute during a dispute resolution proceeding. In such a case an arbitrator may record the settlement for the parties.

Section 79 stipulates that a party to a dispute resolution proceeding may apply for a review of an arbitrator's decision. However, in the case of settlement agreements that arbitrator has not made any decision but rather the parties themselves agreed to resolved the dispute. As such, a review cannot be contemplated.

### Decision

For the reasons noted above, I dismiss the landlord's Application for Review Consideration.

The record of settlement made on October 1, 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: October 04, 2013