



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

### Introduction

On October 21, 2013 Arbitrator XXXXX provided a decision on the landlord's Application for Dispute Resolution seeking a monetary order and an order of possession. The hearing had been conducted on October 21, 2013.

That decision granted the landlord an order of possession effective 2 days after service on the tenant and a monetary order in the amount of \$3,340.00. The tenant 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 tenant submits in his Application for Review Consideration that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control.

### Issues

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

If the tenant has submitted his Application within the required time frames it must be decided whether he is entitled to have the decision and orders of October 21, 2013 suspended with a new hearing granted because he has provided sufficient evidence to establish that he was unable to attend the hearing for unexpected reasons that were beyond his control.

### 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 2 days after a copy of the decision or order is

received by the party, if the decision relates to a landlord's notice to end tenancy for non-payment of rent.

From the decision of October 21, 2013 the issues before the Arbitrator were related to the landlord's 10 Day Notice to End Tenancy for Unpaid Rent. As such, I find the decision and order the tenant is requesting a review on allowed 2 days to file his Application for Review Consideration.

From the tenant's submission he received the October 21, 2013 decision and order on October 31, 2013 and filed his Application for Review Consideration with the Residential Tenancy Branch on October 31, 2013 (the same day the decision and order were received). I find the tenant has filed his Application for Review Consideration within the required timelines.

The tenant submits that on the date between 9:30 a.m. and 1:30 p.m. of the hearing he was in court. He states that thought he would not have to attend the court proceeding but after speaking to his lawyer's office he was informed that he had to attend the court proceeding.

The tenant does not indicate when he was informed he had to personally appear in court or why he did not attempt to have the Residential Tenancy Branch (RTB) hearing re-scheduled.

As the tenant must have been aware of both hearings well in advance of them I find that it was the tenant's responsibility to determine, well in advance, has to where he would be needed and if he could not attend the RTB hearing he could have arranged to have an agent represent him at the RTB hearing or at least attempted to re-schedule the hearing.

I find that the tenant's lack of planning does not constitute reasons that were unexpected or outside of his control sufficient to grant a new RTB hearing.

### Decision

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

The decision made on October 21, 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: November 07, 2013