



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: O

Introduction

This is an application by the tenant for review consideration of the October 17, 2013 decision rendered on the tenant's application after a hearing held on October 2, 2013.

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 not available at the time of the hearing.
3. A party has evidence that the director's decision or order was obtained by fraud.

The tenant has submitted the application for Review Consideration based on the ground that the tenant has evidence that the decision was obtained by fraud

Preliminary Issue

The tenant indicates in the Application for Review Consideration that the decision from the October 2, 2013 hearing, issued on October 17, 2013 was obtained by fraud. The tenant indicated in the Application for Review Consideration that they received a copy of the decision on October 23, 2013. The tenant made the application for Review Consideration on December 5, 2013.

I accept the tenants' written confirmation that they received the October 17, 2013 decision from the October 2, 2013 hearing on October 23, 2013 and I find that this is the date that the decision was actually received by the tenant.

Section 80 of the Act states that 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

- (i) the unreasonable withholding of consent, contrary to section 34 (2) *[assignment and subletting]*, by a landlord to an assignment or subletting,
 - (ii) a notice to end a tenancy under section 46 *[landlord's notice: non-payment of rent]*, or
 - (iii) an order of possession under section 54 *[order of possession for the tenant]*, 55 *[order of possession for the landlord]*, 56 *[application for order ending tenancy early]* or 56.1 *[order of possession: tenancy frustrated]*;
- (b) within 5 days after a copy of the decision or order is received by the party, if the decision or order relates to
- (i) repairs or maintenance under section 32 *[obligations to repair and maintain]*,
 - (ii) services or facilities under section 27 *[terminating or restricting services or facilities]*, or
 - (iii) a notice to end a tenancy agreement other than under section 46 *[landlord's notice: non-payment of rent]*;

(c) within 15 days after a copy of the decision or order is received by the party, for a matter not referred to in paragraph (a) or (b). (my emphasis)

Pursuant to section 80(c) of the Act, as excerpted above, I find that the tenant had 15 days from October 23, 2013, which was the date the decision was received, to make an Application for Review Consideration. I find that the tenant would have been required to submit a completed application for processing on, or before November 7, 2013.

I find that the Application for Review Consideration was completed and signed by the tenant on December 5, 2013, according to the date they wrote beside their signatures on page 4 of the form. I find as a fact that this application was not submitted to the Residential Tenancy Branch requesting a review consideration until 42 days after the decision was received by the tenants. No request was made by the applicant for a time extension.

Given the above, I find that the tenant's application was submitted beyond the statutory 15-day deadline under the Act. Accordingly, the tenant's application for Review Consideration is dismissed without leave to reapply.

Decision

Based on the above, I find that the tenant's Application for Review Consideration is now beyond an arbitrator's authority to determine, as the application was not made within the statutory deadline imposed by the Act. Accordingly, the tenant's application is dismissed.

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: December 11, 2013

Residential Tenancy Branch