



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## Review Consideration Decision

Dispute codes: MNR OPR

### Introduction

This is an application filed by the tenant for review of a decision of an Arbitrator dated December 02, 2013. Pursuant to the decision an order of possession and a monetary order were issued in favour of the landlord. The decision and orders were issued by way of an *ex parte* proceeding in response to an application by the landlords, where the attendance of neither party is required.

Division 2, Section 79(2) of the *Residential Tenancy Act* provides that 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.

### Issues

The application for review is filed on the basis of grounds # 2 and # 3.

Has the tenant's application for review been filed in a timely manner?

### Facts and Analysis

Section 80 of the Act addresses **Time limit to apply for a review**, and depending upon what the decision or order(s) relate to, provides that a party must make an application within either 2, 5 or 15 days "after a copy of the decision or order is received by the party." In this case, the decision and orders arise out of "a notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*]." Accordingly, the time limit for filing an application for review is 2 days after the decision and orders were received by the party. On his application for review, the tenant documents that he received the decision in the mail on Thursday, December 5, 2013. As the tenant's application for

review was filed on Tuesday, December 10, 2013, I find that the application was filed outside the statutory 2 day limit. Specifically, “day 1” is Friday, December 6 and as December 7 & 8 fell on a weekend, “day 2” is Monday, December 9, 2013. Further, in his application the tenant has not requested an extension of time to apply for review.

### Decision

As the application for review was not filed within the prescribed statutory time limit, and as the tenant has not requested an extension of time to apply for review, the application for review is declined, and the application will therefore not be considered on its merits. The original decision and orders dated December 2, 2013 are therefore 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: December 11, 2013

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Residential Tenancy Branch