



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: CNC CNR DRI LRE MNDC O OLC

Introduction

The original dispute resolution hearing on the application of the tenant was held on November 14, 2013, and a decision was issued on November 20, 2013, dismissing the tenant's application seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and a 1 Month Notice to End Tenancy for Cause issued to him by the landlord.

The decision of November 20, 2013, the original Arbitrator cancelled the 10 Day Notice, and upheld the 1 Month Notice, dismissing the tenant's application seeking cancellation of the Notice. The original Arbitrator also issued the landlord an order of possession for the rental unit, effective on November 30, 2013.

This is a request by the tenant for a review consideration of that original decision.

The tenant applied for a review consideration on the grounds that he has new and relevant evidence that was not available at the time of the original hearing.

Issue

Has the applicant for review provided sufficient evidence to support the indicated ground for review?

Facts and Analysis

Evidence that the applicant has new and relevant evidence that was not available at the time of the original hearing-

In his application for review consideration, the tenant supported his application with the words, "See attached," in the space where the applicant is required to list each item of alleged new and relevant evidence and to state "WHY" it was not available at the time of the hearing.

As to what was attached, the applicant delivered approximately 109 unnumbered, non-sequential pages of documentary evidence, which included copies of 5 previous dispute resolution decisions issued by separate Arbitrators, previous Notices to end the tenancy issued to the tenant, documents which appear to be evidence submitted for the hearing or previous hearings, a notice of a rent increase, and witness statements.

Additionally the tenant submitted a typewritten page outlining the basis of his application for review consideration, outlining a series of alleged events subsequent to the last dispute resolution hearing on November 14, 2013.

Additionally, the tenant submitted two DVDs, which was not accompanied by a written description of the contents of the DVDs, as required by the Dispute Resolution Rules of Procedure (Rules). I was not able to determine whether the content of the DVDs submitted by the tenant was the same content in the DVDs the tenant submitted for the hearing on November 14, 2013, which was excluded from consideration by the original Arbitrator, due to the lack of any explanation listed by the tenant.

Pursuant to Residential Tenancy Branch Policy Guideline 24, new evidence includes evidence that has come into existence since the dispute resolution hearing or evidence which the applicant could not have discovered with due diligence before the hearing.

In the case before me, I find the tenant submitted no new evidence or that it was not available to him before the hearing and all the evidence appears to be evidence which may have been used at any of the previous 5 dispute resolution hearings; however, the tenant failed to explain or list each item of evidence which he claimed was either new or relevant, or both, and he failed to state why it was not available at the time of the hearing, as required in his application.

I therefore find the applicant/landlord has submitted insufficient evidence to support that he has new and relevant evidence that was not available at the time of the hearing.

I also find the tenant failed give full particulars and sufficient evidence needed to grant an application for review consideration, as required under section 81(b)(i) and (ii) of the Act.

I further find, pursuant to Section 81(1)(b)(iii) of the Act, the tenant's application discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied.

Decision

Due to the above, I dismiss the tenant's application for review consideration and confirm the original decision and order of November 20, 2013, dismissing the tenant's application for dispute resolution and granting the landlord an order of possession for the rental unit.

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 10, 2013