



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNR MNSD

Introduction

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.

This is an application for review filed on January 23, 2014 by the landlord for the review of a Decision dated November 25 , 2013and received according to the applicants for review on January 8, 2014. The applicants applied for an extension of time to file the application for review. The Act specifically provides a 15 day time-frame from receiving the decision/order in which a party can apply for review with respect to a monetary claim. In this instance, the applicants applied 15 days after having received the decision. The applicants are within the timeline and do not require an extension; as a result I dismiss this portion of application as it is not required.

The applicants have applied on the grounds that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control.

The applicant stated that he was out of the country at the time of hearing and was unable to attend. The applicant submitted a plane ticket to support his claim. The applicant initiated the arbitration process and was aware of the date prior to departing. The applicant could either have

phoned in from his travel destination or have an agent appear on their behalf. The applicants own documentation for this review consideration reflects an agents' involvement in this tenancy at time. Based on the insufficient evidence provided by the applicant I must dismiss this portion of their application.

The applicant has also applied on the grounds that they have new and relevant evidence that was not available at the time of the hearing. The applicant has submitted documentation for this review consideration but did not submit any for the hearing. Much of the documentation is of an email thread that is dated prior to the applicant's departure date. The applicant did not explain why this evidence was not available at the time of the hearing. The applicant could have provided this for the hearing along with written submissions but chose not to. Based on the above I dismiss this portion of the landlords' application.

The decision and order made on November 25, 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: January 27, 2014

Residential Tenancy Branch