



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNSD

Introduction

On October 30, 2013, a hearing was conducted to resolve a dispute between these two parties. Both parties had made application. The landlord had applied for compensation under the *Act* and to retain the security deposit. The tenant had applied for the return of double the security deposit. The landlord did not attend the hearing. The Arbitrator dismissed the landlord's application. The tenant was granted a monetary order in the amount of her application. The landlord has applied for a review of this decision.

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.

Issues

Did the applicant for review file this application in a timely manner? Was the applicant unable to attend the hearing because of circumstances that could not be anticipated and were beyond his control?

Facts and Analysis

This is an application for review filed on December 30, 2013 by the landlord for the review of a Decision dated October 30, 2013 and received by the landlord on December 13, 2013. The landlord applied for a review 17 days after having received the decision. The *Act* specifically provides a fifteen day time-frame in which a party can apply for review with respect to an application of this nature.

Under section 66(1) of the *Act*, an extension of time to apply for review can only be granted where the applicant has established that there are exceptional circumstances. I find that the applicant has failed to apply for an extension of time and prove that

exceptional circumstances prevented the landlord from filing for review in a timely manner. Accordingly, I dismiss this application for review.

The male landlord states that he did not attend the hearing because his pet dog was gravely ill and needed full time care. He also states that the female landlord was attending to her quadriplegic son and was unable to attend. The landlord did not attach any documents to support his reasons for being unable to attend the hearing.

The landlord had the option of requesting an adjournment prior to the hearing or calling in to the hearing by conference call to request an adjournment. The landlord could also have had an agent represent him at the hearing or call in to request an adjournment. The landlord chose neither option. This ground is not intended to permit a matter to be reopened if a party, through the exercise of reasonable planning, could have attended, requested an adjournment or had an agent represent him at the hearing.

Accordingly, even if the landlord had applied for a review in a timely manner or applied for more time to make the application, I find that the application for review on the ground of unable to attend must fail.

Decision

The decision made on October 30, 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 07, 2014

Residential Tenancy Branch