



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

This is an application by the Landlord for a review consideration of the decision of Arbitrator J. Ceraldi dated October 2, 2014. The Landlord did not attend the hearing on October 2, 2014 as the Landlord indicated he had medical issues and he was caring for a sick family member during the time period when the hearing took place. As well in the Landlord indicates in his review consideration application that because of language issues at the Residential Tenancy Office his review consideration application was delayed. Due to this situation the Landlord has made an application for more time to file his review consideration application. The review application was made on November 18, 2014 which is 22 days after receiving the decision. The Act says an application for review must be made within 15 days of receiving the decision and orders. The Landlord indicated in his review application that he came to the Residential Tenancy Office 4 times within the time limits but due to language issues he was not able to file his review application. Therefore the Landlord has requested more time to make the review application.

Further the Landlord has requested a review of the decision of October 2, 2014 as he states he was not able to attend the hearing because of health issues and the death of his brother. The Landlord indicated his brother passed away on October 25, 2014 and his funeral was on November 7, 2014. The Landlord included a note from his Doctor dated November 7, 2014 indicating the Landlord is on medication that can make him drowsy and the Landlord will need follow up. There is no indication that the Landlord had medical issues or care of the family member commitments that would stop him from attending the hearing on October 2, 2014.

The Hearing on October 2, 2014 was a review hearing and Arbitrator J. Ceraldi's decision was to uphold the original decision and order of July 3, 2014. The original hearing found for the Tenant in the amount of \$2,250.00 which represented double the security deposit in the amount of \$2,200.00 and the filing fee of \$50.00.

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

The Landlord's application for a review of the previous Arbitrator's decision is on the grounds that the Landlord was unable to attend the original hearing because of circumstances beyond his control. Is the Landlord's application justified?

Facts and Analysis

First the Landlord has requested more time to make this review consideration application because he failed to file the application within 15 days of receiving the decision and order. The Landlord says it is on the grounds that he did attend the Residential Tenancy Offices 4 times to make the review application within the 15 days but because of language issues he was not able to make his review consideration application. On my review of the previous hearings and review applications with respect to this situation I found that the Landlord had assistance in the first hearing from Andrea Dulay and if the Landlord knew that he had language issues the Landlord could have

brought a translator to the Residential Tenancy Office on one of the 4 visits he made to make the application. As well the Landlord has made a previous review application on July 17, 2014, so the Landlord was familiar with the process and any language issues that he might encounter making an application. I do not accept the Landlord's reason of language issues causing the Landlord's application to be outside of the time limits for an application for a review consideration. Consequently I dismiss the Landlord's application for a review consideration as it was not filed with the time lines as defined in section 80 (c) of the Act. A review consideration application must be filed within 15 days of receiving the decision and order in monetary claims. The Landlord received the decision and order on October 27, 2014 and he applied for a review consideration on November 18, 2014. This is 22 days after receiving the decision and order and therefore is considered a late filing. Consequently I dismiss the Landlord's review consideration application without leave to reapply.

Decision

In considering the evidence of the Landlord's review application, I find that the Landlord has not filed the application in accordance to the Act and therefore the application is dismissed without leave to reapply. Consequently, Arbitrator J. Ceraldi's decision and order stands in effect as dated in the original hearing of October 2, 2014.

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: November 25, 2014

Residential Tenancy Branch