



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** MNR OPR

### **Introduction**

The Decision/Order under review is a Decision on the Landlord's application for an Order of Possession and a Monetary Order for unpaid rent. The matter was considered by Direct Request Proceeding, which is a process that does not require a participatory Hearing pursuant to the provisions of Section 55(4) of the Act. The Direct Request Process may be used when a Notice to End Tenancy has been given, the Tenant has not disputed the Notice, and the time for making that application has expired.

In his Application for Review Consideration, the Tenant submitted that he received the Orders on May 11, 2012, by personal service.

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 following 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.

The Tenant applies for review on the second and third grounds set out above.

### **Issues**

Does the Tenant have evidence that the director's decision or order was obtained by fraud?

### **Facts and Analysis**

In his Application for Review Consideration the Tenant submitted that the Landlord received a rent cheque directly from the Ministry, but the Landlord returned the cheque to the Ministry. The Tenant provided a copy of a "Cheque Details (Query)" printout from the Ministry.

I do not find that this is conclusive evidence of fraud on behalf of the Landlord. There is simply not enough information or facts to clearly establish the Landlord was fraudulent.

However, I do find that the Decision *may* have been different if the Dispute Resolution Officer had this information been before him while making his determinations.

On this basis, I allow the Application for a Review and I hereby Order that a new Hearing be convened pursuant to the provisions of Section 82(2)(c) Act at which point the merits of the circumstances surrounding the payment of April, 2012 rent, including the allegations raised in this Application for Review, can be addressed by both parties. This Hearing will be held by telephone conference call at the date and time shown in the attached Notice of Hearing.

Having accepted the request for a review under Section 79, I will not consider all the evidence with respect to the grounds submitted for review in this Application. Those are issues to be dealt with at the Hearing in this matter, as described below.

I further Order that the Decision and Orders dated May 4, 2012, **be suspended** until such time that the Hearing is conducted and a decision is reached.

Pursuant to the provisions of Section 81(4) of the Act, the Tenant must serve the Landlord with a copy of this Review Decision and the attached Notice of Hearing within **three (3) days** of receiving this Review Decision.

### **Conclusion**

The Tenant's Application for Review Consideration is allowed.

I order that the original Decision and Orders dated May 4, 2012, **be suspended** until such time that a participatory Hearing is conducted and a decision is reached.

Pursuant to the provisions of Section 81(4) of the Act, the Tenant must serve the Landlord with a copy of this Review Decision and the attached Notice of Hearing within **three (3) days** of receiving this Review Decision.

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: May 22, 2012

---

Residential Tenancy Branch