



Landlord and Tenant Fact Sheet

RTB-100

Review of a Dispute Resolution Officer's Decision

s. 79 Residential Tenancy Act and s. 72 Manufactured Home Park Tenancy Act

A dispute resolution hearing is a formal legal process. In limited circumstances, the Residential Tenancy Act (RTA) and the Manufactured Home Park Tenancy Act (MHPTA) allow a dispute resolution officer (DRO) to review his or her decision. Only the Supreme Court of British Columbia has the authority to overturn a DRO decision or order.

DROs also have the authority to clarify decisions or make changes, such as correcting typographical or arithmetic errors or obvious errors or inadvertent omissions. The difference between a "review" and a "clarification or correction" is that a review may change the outcome of the dispute.

The other difference is that you must pay a fee to submit an Application to Review a Dispute Resolution Officer's Decision or Order but you do not have to pay a fee if you are just asking for a clarification or correction.

- See Fact Sheet #RTB-111 – Clarification or Correction of Orders and Decisions.

When can a review by a DRO be requested?

There are only three reasons for requesting that a DRO review a decision that he or she has made. These are called the "grounds for review". A person who asks for a review must be able to prove one of the following reasons ("grounds"):

- that he or she was unable to attend the hearing due to circumstances that could not be anticipated and were beyond his or her control.
- that he or she has new and relevant evidence that was not available at the time of the original hearing.

- that he or she has evidence that the decision was obtained by fraud.

A review is not an opportunity to re-argue the case.

Deadline for requesting a review

The deadline for submitting the request is two (2) days from the date when you received the decision or order, if it relates to:

- an early end of tenancy,
- an order of possession for a landlord or tenant,
- a landlord's withholding of consent for assigning or subletting,
- a landlord's notice to end a tenancy for non-payment of rent.

The deadline for submitting the request is five (5) days from the date when you received the decision or order, if it relates to:

- a dispute of notice to end tenancy agreement other than non-payment of rent
- repairs or maintenance
- terminating services or restricting facilities

The deadline for submitting the request is fifteen (15) days from the date when you received the decision or order for all other matters.

Making an Application for Review

To request a review, you must submit an Application to Review a Dispute Resolution Officer's Decision or Order and pay the fee to the Residential Tenancy Branch before the deadline set out above.

Residential Tenancy Branch

Lower Mainland: 604-660-1020 Victoria: 387-1602 Elsewhere in BC: 1-800-665-8779
Website: www.rto.gov.bc.ca

#04018-100(2009/09)

How to prove the reason ("grounds") for the review

Unable to attend

A dispute resolution officer will only agree to review the decision or order if he or she accepts your proof that you did not attend the hearing because something happened that you couldn't control or that you could not have expected to happen.

Reasons such as "I forgot the time" or "I couldn't get a parking space" or "I was on the phone with someone else when the conference call hearing started" may not be enough to convince a DRO to change his or her decision or hold another hearing.

A reasons such as "I was at the hospital" may be enough but you may be expected to produce a letter from your doctor or some other document that proves where you were.

New and relevant evidence

A party is responsible for being fully prepared for the original hearing, including collecting and supplying all relevant evidence. "Evidence" refers to any oral statement, document, photograph, videotape or thing that proves a fact in a dispute resolution hearing. Evidence can include, but is not limited to, letters, affidavits, receipts, records, videotapes, audio tape recordings and photographs.

On an application for review, you must be able to show that:

- the evidence is new. "New" evidence includes evidence that came into existence since the hearing.
- there is evidence that was not available or did not exist at the time of the original hearing. If the evidence did exist but was not presented, you must be able to prove that you did not know about it or could not have known about it.
- the evidence is relevant to the matter before the DRO. "Relevant" means that evidence that relates to or has a bearing upon the disputed matter or evidence that may prove or disprove some evidence presented by the other party.

The decision or order was obtained by fraud

The person requesting the review must be able to prove that evidence presented by the other party was false and that it was a significant factor in the decision.

Fraud is the intentional false representation of a matter of fact that deceives and is intended to deceive. Fraud can be carried out by words or by conduct, by false or misleading allegations, or by concealment of information or evidence that should have been disclosed. Intentional false testimony would constitute fraud, as would making changes to a document either to add false information or to remove information that would tend to disprove one's case.

Dispute Resolution Officer decides whether to proceed with review

The DRO decides whether the review will proceed based solely on the application and the evidence that is submitted with it. At this point, the applicant for a review does not need to notify the other party.

The review might not proceed, or may be dismissed, if:

- the application does not provide a complete description (called "full particulars") of the reason for review;
- the application and evidence do not prove the reason ("grounds") for a review;
- the application discloses no basis on which the decision or order can be set aside or amended;
- the application is frivolous, vexatious, or trivial or was not initiated in good faith; or
- the applicant fails to pursue the application diligently or comply with an order made during the review.
- The DRO may also dismiss or refuse to proceed with a review if the matter can be resolved by:
 - correcting of a typographical, arithmetical or other similar error in the decision or order,
 - providing a clarification of the decision, order or reasons, or
 - dealing with an obvious error or inadvertent omission in the decision, order or reasons.

The review decision

If the review proceeds, the applicant receives a copy of the decision and must serve this decision and all the other information that was submitted for the review on the other party. The other party can then respond to any new evidence before the review is complete.

If the review does not proceed, the DRO will advise the applicant in writing and provide the reasons for the decision.

For more information ...

Visit the RTB's Web site at www.rto.gov.bc.ca.

Call an Information Officer or listen to our 24 Hour Recorded Information Line:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

Visit the RTB nearest you:

Burnaby: 400-5021 Kingsway

Victoria: 1st Floor, 1019 Wharf Street

Kelowna: 305 – 478 Bernard Avenue

RTB Burnaby and Victoria are open 8:30 a.m. to 4:30 p.m., Monday to Friday.

RTB Kelowna is open 8:30 a.m. to 12 noon, Monday to Friday for limited services.

All RTB offices are closed on statutory holidays.

If there is no RTB in your area, you can get residential tenancy guides, fact sheets and forms online at www.rto.gov.bc.ca or at any Service BC—Government Agents Office.