

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

REVIEW DECISION

This is an application for review filed on May 25, 2009, by the landlord for the review of a Decision dated May 14, 2009 and received according to the applicant for review on May 20, 2009.

The applicant relies on section 79(2)(a) of the *Residential Tenancy Act*, which provides that the director may grant leave for review if a party was unable to attend the hearing because of circumstances that could not be anticipated and were beyond the party's control.

An arbitration hearing is a formal legal process and parties should take reasonable steps to ensure that they will be in attendance at the hearing. This ground is not intended to permit a matter to be reopened if a party, through the exercise of reasonable planning, could have attended.

In her application for review, in response to the question "List the reasons for being unable to attend" the applicant/landlord states:

- Ill with severe back and neck pain since May 11
- Death of a close friend
- Daughter has ADHD
- Called in on May 15, 2009 instead of May 14, 2009.

In explaining why the circumstances could not be anticipated and were beyond her control the tenant states that she could not have anticipated getting ill, the death of a friend and the problems associated with her daughter's medical condition.

The applicant has filed a doctor's note stating that she was unable to work on May 11, 2009 "*due to illness*" and has also filed verification of visits to message therapy and a chiropractor on May 11 and May 22, 2009.

After carefully considering the Application for review, I determined that the landlord has failed to establish sufficient grounds to be granted leave for review. The landlord's illness caused her to miss work on May 11, 2009 and her medical appointments were on May 22, 2009. The hearing was on May 14, 2009 and by the landlord's own admission, she called in on May 15, 2009, in error and waited for 45 minutes on the phone before getting help from an information officer.

The memorial service for the close friend was held on May 03, 2009 which is well in advance of May 14, 2009 and the landlord's daughter's medical condition is ongoing.

The landlord's illness began on May 11 and therefore I find that the landlord could have foreseen that her illness, grieving for a close friend and anxiety regarding her daughter's medical condition, would plague her on the date of the hearing and could have appointed an agent to represent her. I find that the circumstances could have been anticipated. Accordingly, I find that the application for review on the ground of "Unable to attend" must fail.

For the above reasons, I dismiss the application for leave for review. The original decision dated May 14, 2009 is confirmed.

Dated June 05, 2009.

Dispute Resolution Officer