



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

APPLICATION for REVIEW

Dispute codes: FFMNR OPR

Introduction

On September 26, 2011, a hearing was conducted to resolve a dispute between these two parties. The landlord had applied for an order of possession and a monetary order for unpaid rent and the filing fee. The Dispute Resolution Officer called into the hearing by conference call and waited ten minutes for the parties to sign on. Neither party called into the hearing and therefore the application was dismissed with leave to reapply. 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.

The applicant relies on sections 79(2)(a) of the *Residential Tenancy Act* (the "Act").

Issues

Was the tenant unable to attend the hearing because of circumstances that could not be anticipated and were beyond his control?

Facts and Analysis

In his application for review on the grounds that he was unable to attend, the landlord states that he called in at the designated time and waited for the Dispute Resolution Officer and the Respondent to join the conference call. Neither party called in.

A review of the telephone report regarding the attendees of the conference call, indicates that a person called in from the landlord's contact number at 10:30am and waited until 11:03 before he/she disconnected the phone line.

Based on this report, I find that the failure of the applicant to attend the original hearing was due to a systemic problem with the telephone lines and therefore I grant his request for a review hearing.

I order that the original hearing be reconvened. The review hearing will be conducted by conference call. The parties will be notified of the date of the review hearing by the Residential Tenancy Office. The landlord must provide to the tenant copies of the relevant information and/or documents to which he may refer at the hearing. Service must be by registered mail or personal service.

Failure to attend the hearing at the scheduled time, with all relevant evidence and/or witnesses, will result in a decision being made on the basis of any information before the Dispute Resolution Officer and the testimony of the party in attendance at the hearing.

Decision

The decision made on September 26, 2011 is suspended pending the outcome of the reconvened hearing.

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: October 14, 2011.

Residential Tenancy Branch