



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** CNR

### **Introduction**

This is an application by the Tenants for a review of a Decision rendered by a Dispute Resolution Officer (DRO) on November 1, 2011 with respect to applications for dispute resolution filed by the Tenants and the Landlords.

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 Tenants applied for a review on the basis of the first ground listed above.

### **Facts and Analysis**

The Parties respective applications were heard on November 1, 2011. The Tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 3, 2011. The Landlords applied for an Order of Possession on the grounds that the Tenants had not disputed a One Month Notice to End Tenancy for Cause dated September 19, 2011.

As the Tenants did not attend the oral hearing to give evidence in support of their application, it was dismissed. The Dispute Resolution Officer granted the Landlords an Order of Possession on the grounds that the Tenants had not disputed (or applied to cancel) the One Month Notice to End Tenancy for Cause dated September 19, 2011.

In their review application, the Tenants claim they were unable to attend the hearing on November 1, 2011 because one of them (J.B.) was ill and had to be taken to the hospital. In support of that assertion, the Tenants provided the following documents:

- A note from Burnaby Hospital dated August 18, 2011 stating that the patient was admitted August 16-17, 2011 and that it was recommended she not return to work until August 30, 2011; and
- A note from Highgate Medical Walk-in Clinic dated November 3, 2011 which states that the patient was treated that day for an asthma attack.

RTB Policy Guideline #24 (Review Consideration) states at p. 1 that:

“In order to meet this test, the application and supporting evidence must establish that the circumstances which led to the inability to attend the hearing were both beyond the control of the applicant and could not be anticipated.”

I find that the evidence provided by the Tenants in support of their review application does not show that they were unable to attend the hearing on November 1, 2011 due to a medical emergency; instead the evidence shows that one of the Tenants was hospitalized in mid-August 2011 for 2 days and received medical treatment on November 3, 2011 (2 days after the hearing).

Furthermore, even if the Tenants had attended the hearing on November 1, 2011, the Landlords would still have been entitled to an Order of Possession because the Tenants did not dispute (or apply to cancel) a One Month Notice to End Tenancy for Cause dated September 19, 2011.

### **Decision**

For all of the above-noted reasons, the Tenants' review application is dismissed without leave to reapply. The Decision and Order made on November 1, 2011 remain in force and effect.

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 09, 2011.

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Residential Tenancy Branch