



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNSD

Introduction

The Applicant/Landlord applies for review of the decision on the basis that the Landlords were unable to attend the Hearing.

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 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

Have the Landlords provided evidence to substantiate that the Landlords were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the Landlords' control?

Facts and Analysis

The Landlords submit in their application that they were unable to attend the Hearing due to being cut off shortly after dialling into the Hearing at 1:00 p.m. on the scheduled date. The Landlords submit that they called back in however there was nobody on the other line. Information provided by the Residential Tenancy Branch supports this evidence of the Landlords. The Landlords further submit that the first time they received the Tenant's forwarding address was when they received the Tenant's application for Dispute Resolution. Information on file indicates that the Tenant's original application was made on July 29, 2011 and served on the Landlords by registered mail on August 3, 2011.

Section 81 of the Act provides that an application for review may be dismissed where the application discloses no basis on which, even if the submissions in the application were accepted, the decision should be set aside. Although it can be found that the Landlords were unable to attend the Hearing due to circumstances beyond their control, the Landlords have not supplied, nor could they supply, any evidence that their appearance would have changed the outcome. The Landlords' submit that they

received the Tenant's address in writing when they received the Tenant's application. The Landlords did not make an application to claim against the Tenant's security deposit within 15 (fifteen) days of the receipt of the Tenant's application, containing the Tenant's forwarding address, as required by section 38 of the Act and therefore, there is no basis upon which to set aside the decision.

Decision

The decision made on November 7, 2011 stands.

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: December 06, 2011.

Residential Tenancy Branch