



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: ET

Introduction

The original hearing was held on January 13, 2012 and a decision and order were issued on the same date.

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 applicant is requesting a review of the original decision and order claiming the following:

1. He was unable to attend the original hearing for reasons that were beyond his control and could not be anticipated.
2. He has new and relevant evidence that was not available at the time of the original hearing.
3. The original dispute resolution officer's decision was obtained by fraud.

Facts and Analysis

The application contains information under Reasons Number 1, 2, & 3

Reason number 1

Counsel for the applicant has stated that the applicant is a new Canadian from Africa and not fully conversant in the English language, and had relied upon a friend to assist with the telephone hearing however the friend turned out not to be available. As a result the applicant inadvertently missed the telephone hearing.

It is my decision that I accept the claim that the applicant missed the original hearing for reasons that were beyond his control. I have reviewed the original decision and on the face page of the decision under parties attending it states that a party had attended claiming to be the agent for the tenant. I believe this supports the applicants claim that he had intended to participate in the hearing, because had he intended to have an agent participate in his place its likely he would have given that agent written authorization.

Therefore I allow the request for a new hearing.

Having allowed the request for a new hearing under reason number 1 there is no need for me to make a finding on the claims made under reasons number 2 and 3

Decision

I have allowed the request for a new hearing, and new hearing letters will be sent to both parties from the Residential Tenancy Branch with the new date and time for the 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: January 23, 2012.

Residential Tenancy Branch