



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

### Introduction

On January 12, 2011 Dispute Resolution Officer (DRO) XXXXXX provided a decision on the landlord's Application for Dispute Resolution seeking a monetary order unpaid rent and utilities.

That decision granted that the landlord a monetary order in the amount of \$1,610.00 for the outstanding amounts less the security deposit held as a result, at least in part, of the tenant's absence and therefore undisputed testimony provided by the landlord.

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 tenant submits in her Application for Review Consideration that she was unavailable at the time due to circumstances beyond their control.

### Issues

The issues to be decided are whether the tenant is entitled to have the decision of January 12, 2011 suspended and a new hearing granted because she has provided sufficient evidence that they were unable to attend the hearing due to circumstances beyond their control.

### Facts and Analysis

The tenant submits that despite currently living in a building own by the same landlord as that noted in this decision, the landlord never served her with notice of this hearing or in fact with a copy of the decision or order, after the decision was granted.

The tenant submitted a letter dated January 24, 2012 that she received from a collection agency seeking payment of \$2,969.70, over \$1,300.00 in excess of the order granted by the decision under Review.

After receiving this letter the tenant contacted the Residential Tenancy Branch (RTB) and obtained a copy of the decision. I therefore accept that the tenant did not receive a copy of the decision or order until February 6, 2012.

In the decision, DRO XXXXX writes: "The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing documents. I found that the tenants had been properly served with notice of the landlord's claim..."

As the decision did not include a description of the method of service and there is no information in the file as to how the tenant was served, I accept that the tenant did not receive any notification of the hearing that was held on January 12, 2011.

As I have found the tenant was not aware of the hearing and subsequently never informed of the decision or presented with an order I find the tenant has provided sufficient evidence establish that she was unable to attend the hearing for reasons beyond her control.

### Decision

For the reasons noted above, I find the tenant has established sufficient grounds for a new hearing on these matters. Details of the new hearing are included with the tenant's copy of this decision. The tenant must serve the landlord within 3 days of receiving this decision with a copy of this decision and the Notice of Hearing documents.

The decision made on January 12, 2011 is suspended until such time as the new hearing has been completed and a decision is given to the parties, in accordance with Section 81(3).

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: February 16, 2012.

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Residential Tenancy Branch