



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** CNC FF OLC

### **Introduction**

On March 13, 2012, a hearing was conducted to resolve a dispute between these two parties. The tenant had applied to cancel a notice to end tenancy. The landlord attended the hearing but the tenant did not. The Dispute Resolution Officer granted the landlord an order of possession. The tenant 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"). Section 79(2)(a) provides that the director may grant leave for review if a party was unable to attend the hearing because of circumstances that could not be anticipated and were beyond the party's control.

### **Issues**

Did the tenant have circumstances that prevented her from attending the hearing which could not be anticipated and were beyond her control?

### **Facts and Analysis**

In her application for review the tenant gave the following reason for not attending the hearing:

*"I was to the understanding that the RTO was going to get a hold of me and the lady at the access centre did not explain anything to me. I wouldn't want to miss this, it was an honest mistake!"*

An arbitration hearing is a formal, legal process and parties should take reasonable steps to ensure that they will be in attendance at the hearing. The Residential Tenancy Branch provides detailed instructions to the parties to enable them to attend the conference. The landlord received the same instructions and was successful in attending the hearing. This ground is not intended to permit a matter to be reopened if a party, through the exercise of reasonable planning, could have attended.

In answer to the question regarding what evidence the tenant would have presented had she attended the hearing, the tenant is silent.

Finally, section 81(1) (b) (iii) of the Act provides that the director may dismiss an application for review if the application discloses no basis upon which, the decision or orders of the director should be set aside or varied. I find that the application for review on this ground must fail.

### **Decision**

#### **The decision made on March 13, 2012 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: March 23, 2012.

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Residential Tenancy Branch