



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC

Introduction

On April 2, 2012 Dispute Resolution Officer (DRO) XXXXXXXXX provided a decision on the tenant's Application for Dispute Resolution seeking a monetary order. The hearing had been conducted on April 2, 2012.

That decision dismissed the tenant's Application because she did not attend the hearing. The tenant submits she received a copy of the decision on April 5, 2012. The tenant did not request an extension of time to apply for Review Consideration.

Division 2, Section 79(2) under the *Residential Tenancy Act (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 his Application for Review Consideration that she was unable to attend the hearing due to unanticipated circumstances that were beyond her control.

Issues

It must first be determined if the tenant has submitted her Application for Review Consideration within the legislated time frames required for reviews.

If the tenant has submitted his Application within the required time frames it must be decided whether the tenant is entitled to have the decision and order of April 5, 2012 suspended with a new hearing granted because she has provided sufficient evidence to establish that she was unable to attend the hearing for unanticipated reasons that were beyond her control.

Facts and Analysis

Section 80 of the *Act* allows a party to submit an Application for Review Consideration up to 15 days after receipt of the decision by that party if the matter is related solely to monetary compensation. As the tenant received the decision on April 5, 2012 I find the tenant has submitted her Application for Review Consideration within the legislated timeframes.

The tenant submits that she became seriously ill at or before 3:00 a.m. on April 2, 2012 and remained ill until sometime on April 4, 2012. The tenant submits that since she lives alone she had no one available to her to call in on her behalf.

I accept the tenant was unable to attend the hearing of April 2, 2012 for unanticipated reasons that were 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 April 2, 2012 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: April 26, 2012.

Residential Tenancy Branch