



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNDC MNSD

Introduction

The original hearing was held on March 6, 2012 by conference call, and a decision and order was issued on March 28, 2012.

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

1. Whether the applicant was unable to attend the original hearing due to circumstances that could not be anticipated and were beyond her control.
2. Whether the applicant has new and relevant evidence that was not available at the time of the hearing.

Facts and Analysis

The application contains information under Reasons Number 1 & 2

Reason # 1

The applicant states that she was unable to attend the original hearing because the documents were mailed to an incorrect address.

She states that her address is 207----- and the documents were mailed to **27----**
-----.

The applicant further states that as a result of the incorrect address she did not receive the notice of hearing and therefore was not aware that a hearing was taking place.

I have reviewed the documents provided by the applicant and confirmed that the tenancy agreement does state that the landlords address is 207,----- and I further confirmed that the application for dispute resolution list the address as 27-----
-----.

Therefore I find it very likely that the applicant mailed the notice of hearing to the incorrect address.

It is my finding therefore that the applicant has shown “on the balance of probabilities” that she was unable to attend the original hearing due to circumstances that could not have been anticipated and were beyond her control.

I therefore allow the landlords request for a new hearing.

Having granted a new hearing under Reason # 1, there is no need for me to make a finding under Reason # 2

Decision

I hereby suspended the decision in order issued on March 28, 2012 and I order that a new hearing be held.

I have instructed the Residential Tenancy Branch to schedule a new hearing for this dispute and to mail new hearing letters to both parties.

I also order that the applicant/landlord must serve the tenants with a copy of the new hearing letter within three days of receiving it.

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 23, 2012.
