



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF OPL

Introduction

The Applicant/Tenant applies for review of the decision on the basis that the Tenant was unable to attend the Hearing, has new and relevant evidence and has evidence that the Decision was obtained by fraud.

Issues

Has the Tenant provided sufficient evidence to substantiate a review?

Facts and Analysis

The Tenant states that the Tenant was unable to attend the Hearing as the Tenant's car broke down en route to picking up the Tenant's witness for their meeting at another location to attend the teleconference hearing. Further, the Tenant states that upon the car breaking down, the Tenant was unable to attend by cell phone as the Tenant was in an area without cell phone reception. The Tenant provided a witness letter confirming the incident.

Section 79(2) of the *Residential Tenancy Act* provides that 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.

Given the evidence of the Tenant, I find that the Tenant was unable to attend the Hearing due to a break-down of the automobile and being in an area without cell phone reception. I find that this is sufficient reason for a review and direct that the review proceed to a new hearing. Given this finding on the one area of review, I find that it is not necessary to consider the evidence of the Tenant on the remaining areas of review requested.

The Parties will be notified of the time, date and call-in particulars for the new hearing. Each party will remain responsible for serving each other with the notice of a dispute resolution hearing and relevant evidence in accordance with the Act.

The decision made on March 16, 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).

Decision

The Tenant is granted a new Hearing. The decision made on March 16, 2012 is suspended.

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 02, 2012.

Residential Tenancy Branch