



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** CNL

### **Introduction**

On June 01, 2012, a hearing was conducted to resolve a dispute between these two parties. The tenant had applied to cancel a two month notice to end tenancy for landlord's use of property. The landlord did not attend the hearing. The Dispute Resolution Officer set aside the notice to end tenancy. The landlord 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**

Was the applicant unable to attend the hearing because of circumstances that could not be anticipated and were beyond his control?

### **Facts and Analysis**

#### **Unable to Attend**

In his application for review on the grounds that he was unable to attend, the applicant states that he did not receive the notice of hearing due to a restraining order that prevented him from gaining access to his home. The applicant filed a copy of the order. Based on the evidence in front of me, I accept that the applicant did not receive the notice of hearing and therefore was unable to attend the hearing.

During the hearing, upon review of the notice to end tenancy, the Dispute Resolution Officer found that the notice did not state the grounds for ending tenancy as required by section 52 of the *Act*. Therefore the Dispute Resolution Officer determined that the notice to end tenancy was invalid and accordingly, the notice was set aside. Even if the applicant had attended the hearing, I find that his testimony would not have changed the decision of the Dispute Resolution Officer.

Section 81(1) (b) (iii) of the *Act* allows the director to dismiss an application for review if the application discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied. Accordingly, I find that the application for review on this ground must fail.

### **Decision**

For the above reasons I dismiss the application for leave for review.

**The decision made on June 01, 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: June 21, 2012.

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Residential Tenancy Branch