



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** CNC MT

### **Introduction**

On July 23, 2012, a hearing was conducted to resolve a dispute between these two parties. The tenant had applied to cancel a notice to end tenancy and for additional time to do so. The tenant did not attend the hearing. The Dispute Resolution Officer granted an order of possession to the landlord. 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").

### **Issues**

Did the applicant have circumstances that that prevented him from attending the hearing which could not be anticipated and were beyond his control? Had the applicant attended would he have presented evidence that would change the final decision?

### **Facts and Analysis**

The tenant stated in his application for review that he had problems accessing the conference call phone line. He stated that he tried to call but couldn't get through as the phone kept "*ringing and ringing*". The tenant stated that he contacted a friend who also tried to call into the conference call without success. The tenant has attached a note from his friend to confirm that the friend had tried calling into the hearing by conference call and was unsuccessful.

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. The code is provided by the Residential Tenancy Branch in a package to the applicant. The tenant who was the applicant notified the landlord of the hearing and both parties were given the same code to enable them to sign into the hearing by conference call. Since the landlord was successful, I am not convinced that there is any reason why the tenant should not have been successful too.

In answer to the question regarding what evidence the tenant would have presented had he attended the hearing, the tenant states "*the landlord was accusing us of illegal activity which we were not involved in*". The tenant did not attach any evidence to support his case.

This ground is not intended to permit a matter to be reopened if a party, through the exercise of reasonable planning, could have attended. I find that the tenant has not proven that he had circumstances that were unanticipated and beyond his control which prevented him from attending the hearing. Accordingly, I find that the application for review on this ground must fail.

### **Decision**

**The decision made on July 23, 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: August 07, 2012.

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Residential Tenancy Branch