



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR

Introduction

This matter dealt with an application by the Landlord for a Review of a Decision of a Dispute Resolution Officer, (DRO) issued on September 10, 2012 regarding an application by the Landlord for unpaid rent. Neither of the Parties attended the hearing and the Landlord's application was dismissed without leave to reapply.

Issues

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 Landlord applied for a Review of the Decision on the 1st ground.

Facts and Analysis

In its written submissions in support of the Review application, the Applicant claims that the property manager responsible for the rental property left the Landlord's firm unexpectedly and that the Landlord had no knowledge of the hearing until it received the Decision in this matter. In support of its Review application, the Landlord provided a letter dated September 19, 2012 to the Residential Tenancy Branch outlining the same alleged facts.

Decision

I find that the reasons provided by the Landlord for requesting a Review of the Decision issued on September 10, 2012 do not warrant remitting this matter back for hearing. The Landlord firm is responsible for ensuring that one of its employees is available to attend a hearing. I find that a failure of one of the Landlord's employees to inform its Managing Agent of a hearing is not a circumstance that was not foreseeable or could not have been anticipated with reasonable diligence. Consequently, the Landlord's Review application is dismissed pursuant to s. 81(1)(b)(ii) in that it does not disclose sufficient evidence of a ground for the review

However, when neither party attends a dispute resolution hearing, the policy of the Residential Tenancy Branch is to dismiss the application ***with leave to reapply***. Consequently, I find that the Landlord's Review Application should also be dismissed pursuant to s. 81(1)(a) because the issue raised by this application should be dealt with by a correction application under s. 78 of the Act.

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: September 27, 2012.

Residential Tenancy Branch