



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNSD

### Introduction

The Decision/Order under review is a decision on the Tenant's application for a monetary award in the amount equivalent to double the security deposit, pursuant to the provisions of Section 38(6) of the Act, and to recover the cost of the filing fee. The Hearing was convened on August 13, 2012, by teleconference. The Dispute Resolution Officer found that the Landlord had been served in accordance with the provisions of Section 89(1)(c) of the Act, however the Landlord did not sign into the teleconference and the Hearing continued in her absence. The Tenant's application was granted. The Landlord indicated that she received the monetary order on August 20, 2012, by e-mail.

Division 2, 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 following 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 applies for review on the first ground set out above.

### Issues

Was the Landlord unable to attend the Hearing because of circumstances that were beyond her control?

### Facts and Analysis

In her Application for Review Consideration, the Landlord indicated that she did not attend the Hearing on August 13, 2012 because:

“Had to go to school in Los Angeles for 9 weeks and never received the date of hearing request. Told Tenant that I would deal with the issues after my schooling. There was damage to the unit from the Tenant.”

The Landlord provided a copy of her travel confirmation information which indicates that the Landlord flew to Los Angeles on April 14, 2012, and returned on June 17, 2012.

At the Hearing, the Tenant provided information that she had mailed the Notice of Hearing documents to the Landlord, by registered mail, sent June 13, 2012. The Tenant also provided testimony that the registered mail was returned to her, unclaimed, after two notices were left for the Landlord to pick up the registered mail.

Section 90 of the Act deems service by registered mail to be effected 5 days after the documents are mailed, whether or not the recipient chooses to accept delivery. In this case, the Landlord was deemed to have been served on June 20, 2012, which is 3 days after she returned from being away.

I find that the Landlord has not provided sufficient evidence that she could not attend the Hearing because of circumstances that were beyond her control and her Application for Review Consideration is dismissed.

It is important to note that the Landlord remains at liberty to apply for damages under the provisions of Section 67 of the Act.

### **Conclusion**

The Landlord's Application for Review Consideration is dismissed. The Decision and Orders of August 13, 2012, are confirmed.

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 7, 2012

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Residential Tenancy Branch