



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNR OPC OPE

Introduction

The Decision/Order under review is a decision on the Landlords' application for an Order of Possession and a Monetary Order for unpaid rent and damages to the rental unit. The Hearing was convened on October 3, 2012 and adjourned to November 14, 2012. The Landlords were represented by legal counsel at the October 3rd Hearing. No one attended on behalf of the Landlords at the November 14th Hearing. The Landlords' application was dismissed without leave to reapply. The Landlords indicated that they received a copy of the Decision on December 13, 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 Landlords apply for review on the first ground set out above.

Issues

Were the Landlords unable to attend the reconvened Hearing because of circumstances that were beyond their control?

Facts and Analysis

In their Application for Review Consideration, the Landlords indicated that their legal counsel did not attend the Hearing on November 14, 2012 because of technical difficulties with the telephone conference system. The Landlords' legal counsel provided a letter stating that he dialed into the conference on time and stayed on the line for 10 minutes, but no one else was there. In his letter, legal counsel states that he

was given the incorrect code to access the conference and that it would be unfair to penalize the Landlords as a result of an error on their counsel's part.

The telephone conference summary sheets bear out the Landlords' legal counsel's statement.

I am satisfied that the Landlords were unable to attend the reconvened Hearing due to circumstances that were beyond their control. Therefore, the Landlord's Application for Review Consideration is granted.

Notices of Hearing are enclosed with this decision for the Landlords to serve upon the Tenant. The Landlords have **three days** to serve the Tenant with a copy of this Decision and a Notice of Hearing in accordance with section 81(4) of the Act which provides:

(4) Within 3 days of receiving a decision to proceed with a review, or within a different period specified by the director, the applicant must give the other party a copy of the decision and of any order giving effect to the decision.

[my emphasis added]

The Landlords must serve the Tenant with these documents in a manner that complies with Section 89 of the Act.

I order that the Decision dated November 14, 2012, in this matter **be suspended** until such time that the new Hearing is conducted and a decision is reached.

Conclusion

The Landlords' Application for Review Consideration is allowed.

Two copies of a Notice of Hearing accompany this Decision. Within three days of receipt of this Decision, the Landlords must serve the Tenant with a copy of this Decision and the Notice of Hearing in a manner that complies with Section 89 of the Act.

I order that the Decision dated November 14, 2012, in this matter **be suspended** until such time that a new Hearing is conducted and a decision is reached.

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: December 21, 2012

Residential Tenancy Branch