



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNSD

Introduction

On October 30, 2012, a hearing was conducted to resolve a dispute between these two parties. The tenant had applied for a monetary order for the return of double the security deposit. The landlord did not attend the hearing. The Arbitrator granted the tenant's application. 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 her control?

Facts and Analysis

In her application for review, the applicant stated that she did not receive the notice of hearing as it was sent to the address of the building in which the rental unit is located, but a unit number was not specified. The building contains 32 suites. The resident manager only found out about the hearing when she received a copy of the decision

which also did not have a unit number in the address, but reached her. She forwarded it to the past resident manager who faxed it to the landlord's office.

I am satisfied that the applicant was unable to attend the hearing because she did not receive the notice to attend. Therefore, I grant the landlord's application for leave for review. I hereby order that the decision dated October 30, 2012 be suspended until a review hearing has been completed. The review hearing will be conducted by conference call. The parties will be notified of the date of the review hearing by the Residential Tenancy Office.

The landlord must provide to the tenant copies of the relevant information and/or documents to which she may refer at the hearing. Service must be by registered mail or personal service. Failure to attend the hearing at the scheduled time, with all relevant evidence and/or witnesses, will result in a decision being made on the basis of any information before the Arbitrator and the testimony of the party in attendance at the hearing.

Decision

The decision dated October 30, 2012 is suspended until a review hearing has been completed.

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: November 30, 2012.

, Arbitrator
Residential Tenancy Branch