



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

### Introduction

The Applicant/Tenant applies for review of the decision on the basis that the Tenant was unable to attend the Hearing and that the decision was obtained by fraud.

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.

### Issues

Has the Tenant provided reasons for an inability to attend the original hearing because of circumstances that could not be anticipated and were beyond the Tenant's control?

Has the Tenant provided evidence that the decision or order was obtained by fraud?

### Facts and Analysis

The Tenant submits that no notice of hearing or any other documents were provided to the Tenant and that the rent was paid every month directly by a Ministry. The Tenant submits that the first named Tenant in the application is not a tenant and only signed the tenancy agreement as a guarantor. It is noted that the tenancy agreement does not include any other tenants or the Applicant/Tenant. The Tenant submits that another

person not named in the application is a co-tenant. The Tenant provided a copy of a rent receipt made out to the co-tenant in the same dispute unit who is not named in the application. The receipt dated December 20, 2012 indicates that \$750.00 was taken for December rent. It is noted that rent is \$750.00 per month and the decision indicates that the Landlord provided evidence at the Hearing that the receipt indicated the monies were taken “for use and occupancy only”. This notation is not on the December 2012 rent receipt.

Given the submissions of the Tenant that no hearing or other documents were received from the Landlord, I find that the Tenant has provided reasons that the Tenant was unable to attend the Hearing due to circumstances that could not be anticipated and were beyond the Tenant’s control. I further note that the Tenant has provided some evidence indicating that the Landlord accepted payment of rent and did not provide a receipt for “use and occupancy only” as stated by the Landlord at the hearing.

I find that a new hearing is warranted.

I hereby order that the decision dated January 24, 2013 be suspended until a review hearing has been completed.

The review hearing is scheduled for **Friday March 1, 2013 at 1:00 p.m.** and will be conducted by telephone conference call.

Failure to attend the hearing at the scheduled time, with all relevant documents and/or witnesses, will result in a decision being made on the basis of any information before the dispute resolution officer and the testimony of the Party in attendance at the hearing.

**Notices of the time and date of the hearing are included with this Review Decision for the Tenant to serve to the Landlord within 3 days of receipt of this Decision.**

Although the Tenant has provided evidence with his application for review consideration, he must serve a copy of that evidence on the Landlord. Each Party must

serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing.

Decision

The decision made on January 24, 2013 is suspended.

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: February 6, 2013