



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNSD

Introduction

On March 11, 2013 a dispute resolution hearing was conducted to resolve a dispute between these two parties. The Tenant had applied for a monetary order for the return of a security deposit. The Landlord did not attend the hearing. The Tenant's Application was granted. The Landlord has applied for review of this decision on April 23, 2013 after receiving a copy of the monetary order on April 19, 2013 and obtaining a copy of the decision on April 22, 2013.

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 has made application on all 3 grounds for review.

Issues

Was the Landlord unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control?

Does the Landlord have new and relevant evidence that was not available at the time of the original hearing?

Does the Landlord have evidence that the decision or order was obtained by fraud?

Facts, Analysis and Decision

On the Landlord's grounds for review that she has new and relevant evidence that was not available at the time of the original hearing the Landlord states, "I am owner of 473 Oceanview Dr. Property, Carol, myself and my daughter shared livingroom, kitchen, bathroom." The Landlord has submitted a copy of a Property Tax Statement dated March 31, 2013.

Section 4 of the Residential Tenancy Act states,

What this Act does not apply to

4 This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

I find that the Landlord has provided sufficient evidence to satisfy me that there is new and relevant evidence that could change the outcome of the original decision. The other two portions of the Application need not be addressed. On this basis, I order that the decision dated March 11, 2013 be suspended pending a hearing held by the original Arbitrator.

A Notice of Hearing Document is attached for each party. **The Applicant (Landlord) is responsible for serving the Respondent (Tenant) with the Notice of Hearing and must provide to the Respondent copies of the relevant information and/or documents to which he/she may refer at the hearing.** The Applicant should be prepared to give evidence of service at the hearing.

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.

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: April 25, 2013

Residential Tenancy Branch