



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SUTTON CENTRE REALTY  
and [tenant name suppressed to protect privacy]

## **REVIEW CONSIDERATION DECISION**

**Dispute Codes** MNDC, OLC, RR, FF

### **Basis for Review Consideration**

Section 79(2) of the Residential Tenancy Act (Act) states 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 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.

### **Applicant's Submission**

The application for review consideration states the decision should be reviewed on the grounds of being unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the applicant's control.

In her application for review, the applicant states that she was unable to attend because on the day of the hearing, she was out of the country on vacation. The landlord filed a copy of her flight itinerary which indicates that she was away from March 16 to March 30, 2013. The hearing was conducted on March 20, 2013.

Prior to leaving on vacation, the applicant contacted co workers of the property management company, to represent her but was unable to find someone willing to do so, because of the complex nature of the issues in dispute. The applicant for review contacted both the Residential Tenancy Branch office and the tenant to request an adjournment. During the hearing the tenant testified that he had told the landlord that he "*would think about the landlord's request*".

In answer to the question of what evidence the applicant would have presented, the applicant states that she would have disputed the tenant's testimony about the loss of quiet enjoyment and the parking situation, for which the tenant was awarded compensation.

### **Analysis**

I am satisfied that the applicant was unable to attend the hearing because she was away on vacation. I am also satisfied that the applicant made efforts to find an agent to represent her but was unsuccessful due to the long history of prior disputes and the complex nature of this case. I further find that the applicant contacted the Residential Tenancy Branch office and the tenant with a request for an adjournment prior to going abroad on vacation and did not receive a clear answer from the tenant.

Therefore, I grant the Landlord's application for leave for review.

### **Conclusion**

I order that a new hearing take place and I order that the decision and order made on March 20, 2013 are suspended pending completion of the new hearing.

Notice of time and date of the hearing are included with this Review Consideration Decision for the landlord to serve the tenant within 3 days of receipt of the Notice of Hearing. Failure to attend the hearing at the scheduled time and to meet deadlines for the submission and service of evidence will result in a decision being made on the basis of information before the Arbitrator 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 11, 2013

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Residential Tenancy Branch

