



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF LRE MNDC OLC

### Introduction

This is an application by the landlord for a review of a decision of the director dated May 6, 2013.

The landlord applied for a review on the ground that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control.

### Issues

Has the landlord provided sufficient evidence to show that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control?

### Facts and Analysis

#### *Previous Proceedings*

The hearing was originally convened on January 28, 2013, pursuant to the tenants' application for monetary compensation, an order that the landlord comply with the Act and an order setting conditions on the landlord's right to enter the rental unit. During that hearing the landlord raised the issue of jurisdiction, claiming that the arbitrator did not have jurisdiction to hear the dispute because the "caretaker" who shared a kitchen and bathroom with the tenants was a co-owner of the property.

The arbitrator ordered the landlord to submit evidence to support this claim by 4:00 p.m. on January 29, 2013. The arbitrator found that she did have jurisdiction and granting a monetary order to the tenants.

The landlord applied for a review, and the reviewing arbitrator found that the landlord did appear to have submitted the requested document, a "promissory note," to the

Branch before the deadline. The reviewing arbitrator granted a limited review hearing to consider only the issue of jurisdiction. The limited review was to be heard by the arbitrator on the original hearing.

The review hearing first convened on April 2, 2013. On that date, the tenants stated that they had not received a copy of the landlord's new and relevant evidence. The arbitrator adjourned the hearing and reconvened at 2:00 p.m. on April 6, 2013. On that date, the landlord did not appear in the teleconference hearing but the tenants did. The arbitrator therefore reinstated her original decision.

### *Landlord's Submissions*

In this application for review, the landlord provided a teleconference report to confirm that the landlord called in to the teleconference hearing for three and a half minutes between 2:06 and 2:09 p.m. on April 6, 2013. The landlord indicated in this review application that they waited and were not put through, so they called the RTB office to see if the hearing had been cancelled, and after waiting on line for 40 minutes they were told that the hearing was held.

### *Analysis on Review*

I am satisfied that the landlord was unable to attend the limited review hearing due to circumstances that could not be anticipated and were beyond their control. In accordance with the principles of administrative fairness and under the authority of section 62(2) of the Act, I find that a reconvene of the limited review hearing is warranted.

### Decision

I order that the decisions dated February 12, 2013 and May 6, 2013 be suspended until the limited review hearing has been completed.

I order that the review hearing be reconvened with the original arbitrator for the limited purpose of hearing evidence regarding jurisdiction. Specifically, the review hearing will be reconvened, as ordered by the arbitrator in the review consideration dated February 20, 2013, in order to determine the significance, if any, of the "promissory note" on the issue of jurisdiction.

Within three days of receiving this decision granting a review hearing, the landlord must serve the tenants with a copy of this decision and the enclosed notice of the time and date of the review 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 arbitrator and the evidence of the party in attendance at the review 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: May 17, 2013

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Residential Tenancy Branch