



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW CONSIDERATION DECISION**

Dispute Codes: FF MND MNDC MNR MNSD O OPR

### Basis for Review Consideration

Section 79(2) of the Residential Tenancy Act (Act) provides a party with the opportunity to apply for a review of a 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 ground 1<sup>st</sup> ground:

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.

The landlord applied for dispute resolution and on May 21, 2013 a hearing was held. The tenant attended the hearing; the landlord was not present. The landlord had submitted a claim for damage to the property, unpaid rent, damage or loss under the Act, to retain the deposit and an Order of possession.

A finding was made by an Arbitrator that the landlord was not entitled to an Order of possession or a monetary order. The Arbitrator dismissed the landlord's application with leave to reapply.

The landlord submits that he was ill on the day of the hearing; that he had the flu and was coughing.

### Analysis

The landlord has submitted that he was unable to attend the hearing held on May 21, 2013 as he had the flu and was coughing. The application for review consideration indicates that in order to be successful for a review under this ground the applicant must provide evidence of circumstances that were beyond his control and that could not be anticipated; i.e. an earthquake or medical emergency. Evidence of an illness that barred the landlord from the hearing could have included documentation of a medical emergency or some other proof that the landlord was incapacitated.

In the absence of any evidence supporting the landlord's submission that he had the flu and a cough, and, in the absence of any verification of the claim of incapacitation, I find that the application for review on the first ground is unsupported and dismissed.

The decision issued on May 21, 2013 is confirmed.

The landlord has been given leave to reapply and may do so.

### Conclusion

The application is dismissed.

The decision issued on May 21, 2013 is confirmed.

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: June 12, 2013