



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNR MNSD OPR

### Introduction

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.

### **REVIEW DECISION**

The applicant has applied on the grounds that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control. The applicant has submitted a faxed letter to the Branch requesting to cancel the hearing as the matter of non payment of rent had been resolved between the parties. The applicant states that the letter was faxed on the morning of May 21, 2013. The applicant has also submitted the fax confirmation sheet supporting that claim. I have reviewed the file and its contents and concur that a faxed letter cancelling the hearing was received and date stamped "May 21, 2013", one day prior to the hearing.

**82** (1) Unless the director dismisses or refuses to consider an application for a review under section 81, the director must review the decision or order.

(2) The director may conduct a review

(a) based solely on the record of the original dispute resolution proceeding and the written submissions of the parties, if any,

(b) by reconvening the original hearing, or

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

Based on the circumstances and evidence before me I find it appropriate that the review be conducted by way of Section 82(2)(a) of the Act as outlined above. Due to administrative constraints the cancellation was not processed in a timely fashion. I find that the original hearing should not have been conducted and accordingly I set aside the original decision pursuant to section 82(3) of the Act.

### Decision

The original decision is set aside.

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 13, 2013

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Residential Tenancy Branch