



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: FF O OPB OPC

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.

The Applicant/Tenant applies for a review of the order on all of the above three grounds. It is noted that the order being reviewed is contained in the Decision and provides the Landlord recovery of the \$50.00 filing fee through a deduction from the Tenant's security deposit.

Issues

Is the Tenant entitled to a review hearing?

Facts and Analysis

The Tenant submits that they were unable to attend the hearing as the receipt of the Landlord's application for dispute resolution and notice of hearing was not received in time for the hearing. The Tenant submits that the package was delivered to an office on a different floor of the Tenant's employment office on May 22, 2013 and that the Tenant did not receive the package until May 27, 2013. The Tenant submits that the package delivered to the office was in the original package that had on April 16, 2013 been sent by registered mail to the dispute address on April 16, 2013 and had been returned to

the Landlord. The Tenant submits that the forwarding address was provided to the Landlord in writing on March 30, 2013. This letter has been provided by the Tenant as evidence for this application.

Given the submissions of the Tenant, I find that the Tenant has substantiated an entitlement for a review hearing due to circumstances that could not be anticipated and were beyond the Tenant's control. As the Tenant has been successful on the above basis, I find that the remaining reasons for the review do not require consideration. I hereby order that the order contained in the Decision dated May 24, 2013 be suspended until a review hearing has been completed.

Notices of the time and date of the hearing are included with this Review Decision for the Tenant to serve to the Landlord within 3 days of receipt of this Decision.

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.

Although the Tenant has provided evidence with its application for review consideration, the Tenant must serve a copy of that evidence on the Landlord. Each Party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing.

Decision

The decision and order made on May 24, 2013 is suspended.

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

Residential Tenancy Branch