



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: CNR ERP FF MNDC MNR PSF RR

Introduction

The tenant has applied for a review consideration of a decision dated June 11, 2013.

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 tenant has applied on ground 1 for the review consideration

Issues

1. Was the tenant unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control?

Facts and Analysis

The tenant writes in his application that he was unable to attend the hearing because "21 minutes into the hearing my or the arbitrators telephone went on disconnect, and I tried to re-enter the trail but could not reconnect."

[Reproduced as written.]

Even, if I accept the tenant's telephone disconnect during the hearing, the arbitrator had heard enough evidence to make a decision on the tenant's application as to the request for cancellation of the Notice.

The evidence at the hearing in part was,

“The tenant did apply to dispute the Notice, and said that he did not pay rent to get the landlord’s attention as to the lack of heat in the rental unit.”

[Reproduced as written.]

The Arbitrator found,

“Upon hearing from the parties, I am satisfied that the tenant owed the landlord rent when the Notice was issued and that he did not pay all or any of the rent owed to the landlord within five days of receiving the Notice. I also find that the tenant did not establish that he had the legal right to withhold the rent owed.”

[Reproduced as written.]

Further, the tenant application discloses no basis on which, even if the submission in the application were accepted, that the decision or order should be set aside. Therefore, pursuant to section 81 of the Act, I dismiss the tenant’s application for review consideration.

Conclusion

Based on the above, the application and on a balance of probabilities, I find the tenant’s application must be dismissed.

Therefore, I find the decision and order made on June 11, 2013, stand and remain in full force and effect. The tenant’s application for review is dismissed.

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 28, 2013

Residential Tenancy Branch