



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** OPC

### **Introduction**

The Decision/Order under review is a decision on the Landlord's application for an Order of Possession. The Hearing was convened on July 19, 2013. The Landlord's application was granted. The Tenant indicated that she received the Decision on July 23, 2013, by mail.

The Tenant requested an extension of time to apply for a review. However, I find that this portion of her Application for Review Consideration is not necessary, as the Tenant filed for review within the 2 days allowed by the legislation.

Division 2, Section 79(2) of the *Residential Tenancy Act* provides that 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 following 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 applied for review on the first ground set out above.

### **Issue**

Was the Tenant unable to attend because of circumstances that were her control?

### **Facts and Analysis**

In her Application for Review Consideration, the Tenant wrote that she did not attend the Hearing on July 19, 2013, and that she would have provided the following testimony if she was at the Hearing:

"The eviction notice [Notice to End Tenancy for Cause] was in my common law husband's name, and he was in jail, so I didn't think I could go. So then he got

out on July 21/13. That day we received on letter from the landlord and that we had to out in two days. We have no money and no where to go.

The three reasons where totally unturn.

- 1) One damage to property – missuse of water
- 2) Illegal activity is happening or going to happen
- 3) Landlords says that I am endangering tenants and landlord.

(reproduced as written)

In her Decision dated July 22, 2013, the Arbitrator found that the Tenant was served with the Notice to End Tenancy for Cause by giving it to the male adult who resides at the site with the Tenant, on May 2, 2013, with two witnesses present. The Arbitrator also found that the Notice was a valid notice to end the tenancy because the Tenant should have reasonably known that the Notice was issued in relation to her tenancy. Therefore, the Arbitrator amended the Notice to include the Tenant's name pursuant to the provisions of Section 61 of the Act. The Arbitrator also found that the Tenant had been provided with a copy of the Landlord's Application for Dispute Resolution and notice of the Hearing, but chose not to respond to the Application or attend the Hearing.

The Landlord's Application for Dispute Resolution names the Tenant as a Respondent. The Landlord testified during the Hearing that she served the Tenant with the Notice of Hearing package on June 19, 2013, with two witnesses present. The Tenant does not dispute being served with a copy of the Landlord's Application for Dispute Resolution and notice of the Hearing. I find that the Tenant did not provide sufficient evidence that she did not attend the Hearing on July 19, 2013, because of circumstances that could not be anticipated and were beyond her control.

Therefore, the Tenant's Application for Review Consideration is dismissed.

### **Conclusion**

The Tenant's Application for Review Consideration is dismissed. **The Decision and Order of Possession issued July 22, 2013, remain in full force and effect.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: July 29, 2013

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Residential Tenancy Branch