



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: FF MNR MNSD OPR

Decision: Leave for Review Denied

Original Decision and Order dated July 19, 2013 confirmed

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 provided documentation that she attended the emergency room of her local hospital on the day the hearing was scheduled. The tenant had an agent attend for her at the hearing. The tenant seeks to have the original decision and order set aside and a new hearing scheduled. Section 81 of the Act clearly addresses the issue before me.

81 (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:

(a) the issue raised by the application can be dealt with by a correction, clarification or otherwise under section 78 *[correction or clarification of decisions or orders]*;

(b) the application

(i) does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely,

(ii) does not disclose sufficient evidence of a ground for the review,

(iii) **discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied,** or

(iv) is frivolous or an abuse of process;

(c) the applicant fails to pursue the application diligently or does not follow an order made in the course of the review.

I do accept that the tenant was unable to attend to the hearing as scheduled, however she had an agent represent her at the hearing and at that hearing the Arbitrator clearly outlined in his decision that “with **agreement of both parties** I grant the landlord an order of possession and adjourn the monetary portion of the hearing to a future date with the notification of the reconvened hearing attached to this interim decision”. The tenant did not file to dispute the claims as made by the landlord nor provide any disputing evidence in regards to unpaid rent. The tenant’s agent represented her during the hearing and agreed to the order of possession on her behalf. In addition the reconvene hearing date was sent along with the original decision which the tenant states in this application was received on July 22, 2013. Neither the tenant nor her

agent attended on the reconvened date of July 30, 2013 to challenge any or all of the interim decision. Based on the above I must dismiss this application.

The decision and orders made on July 19, 2013 is remains in full effect and force.

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: August 08, 2013

Residential Tenancy Branch