



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNDC MNR MNSD

Introduction

The Tenant applies for a review of the above noted decision on the basis that the Tenant did not know about the hearing and did not receive any notice of the hearing.

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.

Issues

Has the Tenant provided sufficient evidence of circumstances that could not be anticipated and were beyond the Tenant's control?

Facts and Analysis

The Tenant submits that he did not hear about the hearing despite having the same address, email and phone number and that the Tenant did not receive notice of the hearing through any of these methods. The Tenant submits that if the hearing had been attended by the Tenant, evidence would have been provided in relation to a signed agreement that the Tenant gave the Landlord permission to keep the security deposit in return for the Tenant ending the tenancy earlier than the fixed term date.

It is noted in the decision that the Landlord provided postal evidence of sending the notice of hearing to the Tenant by registered mail. A review of this evidence indicates that the mail was sent to the Tenant at the same address as provided by the Tenant for this review application. The evidence also indicates that the Tenant failed to claim the mail.

Section 81 of the Act provides that an application for review may be dismissed where it does not disclose sufficient evidence for a ground for the review. I find the postal evidence to be of significant weight that the Landlord sent the notice of hearing to the Tenant. The Tenant has not argued or provided evidence that the Landlord did not send the mail. The postal evidence indicates that the Tenant was required to act by claiming the mail. The postal evidence indicates that the Tenant did not claim the mail. Considering that the Tenant did not provide any evidence that something stopped the Tenant from claiming this mail, I find that the Tenant has not provided evidence that he could not attend the hearing due to circumstances that were not in his control. I therefore dismiss the application for a review.

Decision

The application for review is dismissed and the decision made on July 31, 2013 stands.

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 27, 2013

Residential Tenancy Branch