



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

### Introduction

On August 01, 2013 a hearing was conducted after the landlord filed an application for Dispute Resolution. The landlord had applied for an Order of Possession based on a One Month Notice to End Tenancy. The tenant and the tenants advocate attended the hearing however the landlord did not attend the hearing dispute the Arbitrator allowing 10 minutes for the landlord to dial into the conference call. The landlord's application was dismissed. The landlord has applied for a review of that Decision.

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

The applicant relies on sections 79(2)(a) of the *Residential Tenancy Act* (the "Act"). That the party was unable to attend the hearing because of circumstances that could not be anticipated and were beyond the party's control.

### Facts and Analysis

In order to meet this test, the application must establish that the circumstances which led to the inability to attend the hearing were both:

- beyond the control of the applicant, and
- could not be anticipated.

In this application for review, the landlord has submitted that “I was very busy at that time with the tenants move late out. I totally forgot the time. When I got in later I met [the tenants name here] at the elevator leaving. When I came in 15 minutes later [transcribed as written].

The hearing was scheduled to start at 1.00 p.m. on August 01, 2013. I do not accept the landlord’s reasons that they could not attend the hearing for reasons that were both beyond the landlords control and could not be anticipated. When an applicant files an application for Dispute Resolution it is up to the applicant to ensure they remember to dial into the hearing at the correct time in order to present their evidence. If the landlord fails to do so it is merely an excuse and was not beyond the control of the applicant.

Accordingly, I find that the application for review on this ground must fail.

### Decision

The landlord’s application for review is dismissed.

The decision made on August 01, 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 16, 2013

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Residential Tenancy Branch