



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

On July 26, 2013 a dispute resolution hearing was conducted to resolve a dispute between these two parties. The Landlord had applied for an order of possession for unpaid rent and/or a breach of a material term of the tenancy agreement, a monetary order for unpaid rent, for damage to the unit, site or property, for money owed or compensation for damage or loss, to retain all or part of the security deposit and recovery of the filing fee. The Landlord attended the hearing, but the Tenant did not. The Landlord's application was granted. The Tenant has applied for review of this 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

Was the Tenant unable to attend the hearing because of circumstances that could not be anticipated and were beyond his/her control?

Facts and Analysis

The applicant states that, "There was no phone call or any mails or messages." The applicant also states, "Why you didn't fix the garage and because of that we got robbed in the garage. There was lots of water leaking so our equipment can not be used (evidence-pictures)". The applicant has also submitted 14 photographs.

On July 25, 2013 during the original hearing the Arbitrator wrote,
"The landlord testified that she sent both tenants copies of her dispute resolution hearing package in which she was seeking a monetary award of \$6,704.58 and an Order of Possession by registered mail on June 25, 2013. She provided copies of the Canada Post Tracking Numbers and Customer Receipt to confirm these registered mailings. She testified that these packages were returned to

her by Canada Post. I am satisfied that the landlord served the above documents to both tenants in accordance with the *Act*.”

I find that the applicant has failed to provide sufficient evidence to satisfy me that they were unable to attend due to circumstances that were beyond their control. The Arbitrator found in the original hearing that he was satisfied with the service of the hearing packages by Canada Post Registered Mail. The applicant wrote, “There was no phone call or any mails or messages.” The applicant has failed to provide any evidence that would contradict the Landlord’s sworn testimony that the hearing package was sent by Canada Post Registered Mail.

Decision

The Tenants Application is dismissed.
The decision made on July 25, 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

Residential Tenancy Branch