



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: CNL MNDC MT SS

Introduction

This Application was filed by the tenant on September 06, 2013, seeking a Review Consideration of the Decision dated September 04, 2013. The Decision dismissed the tenant's application, without leave to reapply.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of a 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.

The tenant has applied on the first ground.

Issue

- Has the tenant provided sufficient evidence that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control?

Facts and Analysis

The Application contains information under section C1, on why the tenant could not attend the original hearing held on September 04, 2013.

The tenant writes in his Application:

"I was told by RTO Agent 'face to face hearing is on September 6, 2013 9am.' I am vision and hearing impaired."

[Reproduced as written]

The tenant did not submit evidence with his Application.

Decision

Based on the above, the Application submitted, and on a balance of probabilities, I find the following.

The original file contained a Notice of Dispute Resolution Hearing (the “Notice of Hearing”) document which was prepared and provided to the Applicant on or about July 24, 2013. The Notice of Hearing document clearly indicates that a hearing was scheduled for September 04, 2013 at 9:00 a.m. and provided the physical address of the Burnaby Residential Tenancy Branch office. Both parties were provided a copy of the Notice of Hearing, and a representative for the landlord attended the hearing. In addition, the Notice of Hearing included contact information and it reads under GENERAL INFORMATION about your responsibility and the hearing, “4. The hearing will continue without you if you or your representative is not in attendance.”

The tenant has provided no evidence to support that he is vision and hearing impaired, nor has the tenant provided any details regarding the name of the “RTO Agent” he allegedly spoke with, or the date and time he allegedly spoke with an “RTO Agent”. Therefore, I find the tenant has provided insufficient evidence to support that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control. As a result, **I dismiss** the tenant’s Review Application.

As I have dismissed the tenant’s Review Application, the Decision dated September 04, 2013 stands and remains in full force and effect.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 09, 2013

Residential Tenancy Branch